

**BACKGROUND PAPER FOR THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
(Oversight Hearing, March 21, 2011, Senate Committee on  
Business, Professions and Economic Development)**

**IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS  
REGARDING THE CALIFORNIA BOARD OF ACCOUNTANCY**

**BRIEF OVERVIEW OF THE  
CALIFORNIA BOARD OF ACCOUNTANCY**

The California Board of Accountancy (CBA) was established in 1901 and was charged with regulating the practice of accountancy, and prohibited anyone from falsely claiming to be a certified accountant. The first accountants certified by the CBA were required to sit for written examinations, including questions on Theory of Accounts, Practical Accounting, Auditing, and Commerce Law, and attain a passage rate of at least 70 percent for each section. Applicants were required to provide a notarized affidavit certifying at least three years accounting experience, at least two years of which must have been in the office of a Certified Public Accountant (CPA) performing actual accounting work. In addition, each applicant was required to submit three references testifying to his character, in the form of a "Certificate of Moral Character." Today's mandate that each CBA licensee pass an ethics course finds its antecedent in the CBA's original requirement of this certificate. In 1929, the Legislature placed the CBA within the Department of Professional and Vocational Standards. In 1945, the Accountancy Act was substantially revised. In 1971, the Legislature located the CBA within the newly-created Department of Consumer Affairs (DCA). Today, the CBA regulates about 80,126 certified public accountants and 5,198 accountancy firms.

The CBA enforces the Accountancy Act which defines the practice of public accountancy as the process of recording classifying, reporting and interpreting the financial data of an individual or an organization. In California, the accounting profession's licensed practitioners are the CPAs and the Public Accountants (PA). Shortly after World War II, the PA license was awarded to individuals who demonstrated experience in public accounting and possessed a specified educational background. As of June 30, 2010, 180 individuals held PA licenses. The last PA license was issued in 1968 and, as these particular licenses expire, California eventually will no longer have licensees with this designation. A CPA is a person who has met the requirements of California state law, including education, examination, and experience requirements, and has been issued a license to practice public accountancy by the CBA. Only persons who are licensed can legally be called a CPA or a PA. Additionally, the CBA exercises regulatory authority over accountancy firms. As accounting practitioners, CPAs and PAs are proprietors, partners, shareholders and staff employees of public accounting firms. They provide professional services to individuals, private and public companies, financial institutions, nonprofit organizations, and local, state and federal government entities. CBA's

regulatory authority over CPAs, PAs, and accounting firms is guided by CBA's statutory mandate to protect the public. The Accountancy Act provides that:

***“Protection of the public shall be the highest priority of the California Board of Accountancy in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.”***

Additionally, the CBA's 2010-2012 Strategic Plan states that the CBA's mission is:

***“To protect consumers by ensuring only qualified licensees practice public accountancy in accordance with established professional standards.”***

In concert with this statutory mandate, the CBA establishes and maintains entry level standards of qualification and conduct within the accounting profession, primarily through its authority to license. Through its Examination and Initial Licensure Programs, the CBA qualifies California candidates for the national Uniform CPA Examination, certifies and licenses individual CPAs, registers accountancy partnerships and accountancy corporations. Additionally, CBA ensures that licensees maintain the current professional knowledge necessary for competent performance, registers qualified out-of-state CPAs to practice public accountancy in California, and exercises disciplinary authority over CPAs, PAs and accounting firms. CBA performs its consumer protection mission for many stakeholders, including:

- Consumers of accounting services who require audits, reviews, and compilations of financial statements, tax preparation, financial planning, business advice and management consultation, and a wide variety of related tasks.
- Lenders, shareholders, investors, and small and large companies that rely on the integrity of audited financial information.
- Governmental bodies, donors, and trustees of not-for-profit agencies that require audited financial information or assistance with internal accounting controls.
- Regulatory bodies such as the Securities and Exchange Commission, the Public Company Accounting Oversight Board, the Public Utilities Commission, and federal and state banking regulators; local, state, and federal taxing authorities.
- Retirement systems, pension plans, and stock exchanges.

CBA is a public majority board and is composed of 15 members: seven CPAs and eight public members who shall not be licensees of the CBA, or registered by the CBA. The Governor appoints four of the public members and the seven CPAs, while the Senate Rules Committee and the Assembly Speaker each appoint two public members. The seven CPAs on the CBA include two members who represent small public accounting firms. Each member of the CBA is appointed for a term of four years and holds office until they are reappointed, a successor is appointed, or until one year has elapsed since the expiration of the term for which they are appointed, whichever occurs first. The current members of the CBA are as follows:

Board Members	Appointment Date	Term Expiration Date	Appointing Authority
<p><b>Sarah (Sally) Anderson, CPA, President</b>  Ms. Anderson is a retired Ernst &amp; Young assurance partner and served as the managing partner of the Orange County and Riverside offices. She has been involved in numerous community and philanthropic organizations. Ms. Anderson is currently the Chair of the Board of the Pacific Symphony, a member of the University of California, Irvine CEO Roundtable, a founding member of the Women's Philanthropy Fund of Orange County's United Way, and the Treasurer of the Pacific Club.</p>	January 2, 2011	January 1, 2015	Governor
<p><b>Marshal Oldman, Esq., Vice President</b>  Mr. Oldman is currently a partner in the trust and probate firm Oldman, Cooley, Sallus, Gold, Birnberg &amp; Coleman. Mr. Oldman previously served as a member of the Legislative Monitoring Committee of the Los Angeles County Bar, and as chair of the Executive Committee of the estate planning, trust and probate section of the California State Bar.</p>	December 21, 2010	January 1, 2014	Governor
<p><b>Leslie J. LaManna, CPA, Secretary/Treasurer</b>  Ms. LaManna is currently a partner in the public accounting firm of LaManna &amp; LaManna, CPAs. She previously served as President of the San Diego Chapter of the California Society of CPAs. Ms. LaManna also served as Treasurer of the Rancho Bernardo Republican Women and the Westwood Elementary PTA, and served as adjunct professor in accounting for the University of California, San Diego Extension.</p>	March 19, 2008	January 1, 2012	Governor
<p><b>Diana L. Bell</b>  Ms. Bell previously served as a Senior Vice President for the Hewlett-Packard Company, and is a director for the Northern California Girls Scouts, the Peralta Community Colleges Foundation Board in Oakland, California, and on the Dean's Advisory Board for Michigan State University's College of Natural Science. Ms. Bell also serves as Board Chairman for the Imani Community Church in Oakland, California, and is on the Advisory Board of Monitoring Division, Inc.</p>	January 12, 2011	January 1, 2015	Senate Rules Committee
<p><b>Alicia Berhow</b>  Ms. Berhow was appointed to the California Board of Accountancy by the Speaker of the Assembly in February 2011. She currently serves as Director of Workforce Development with the Orange County Business Council. She previously served as Senior Field Representative for Congresswoman Lorretta Sanchez, as well as Sales Administrator for the Miller Brewing Company in Irvine. Ms. Berhow is a board member for the Anaheim Workforce Investment Board and Orange Children &amp; Parents Together.</p>	February 15, 2011	January 1, 2015	Speaker of the Assembly

<p><b>Michelle R. Brough, Esq.</b> Ms. Brough currently serves as counsel to Brandes Investment Partners, and previously served as senior advisor to the Assistant Secretary of Financial Institutions for the U.S. Department of Treasury, as well as counsel to the U.S. Senate Committee on Banking, Housing and Urban Affairs. Ms. Brough also previously served as a planning commissioner for the city of Dana Point, and is a member of the Orange County Chapter of the California Women's Leadership Association.</p>	November 24, 2008	November 26, 2012	Governor
<p><b>Donald Driftmier, CPA</b> Mr. Driftmier held the office of Vice President from 2006 to 2007, and also served as President from 2007 to 2008. He previously served in the United States Army and was previously a partner with Vavrinek, Trine, Day &amp; Co., LLP. Mr. Driftmier serves on the boards of two dozen other philanthropic and business organizations, and is a guest lecturer at various universities.</p>	November 24, 2008	November 26, 2011	Governor
<p><b>Herschel T. Elkins, Esq.</b> Mr. Elkins previously headed the Consumer Law Section in the California Attorney General's Office before retiring as a Special Assistant Attorney General. Mr. Elkins also served on various task forces and investigative committees on consumer protection matters and drafted many of California's consumer protection statutes.</p>	September 19, 2008	January 1, 2012	Senate Rules Committee
<p><b>Louise Kirkbride</b> Ms. Kirkbride founded Broad Daylight and Answer Systems, and previously served as marketing manager for Tektronix - CAE Systems. Ms. Kirkbride is a member of the board of trustees at the California Institute of Technology and also serves as a board member on the Contractors' State License Board.</p>	January 2, 2011	January 1, 2015	Governor
<p><b>Kitak (K.T.) Leung, CPA</b> Mr. Leung currently serves as principal of Leung Accountancy Corporation. He previously served as manager of several investment groups, and as principal of Leung and Wong Accountancy Group, and Leung and Associates. Mr. Leung also serves on the boards of other various philanthropic and business organizations.</p>	December 21, 2010	November 26, 2013	Governor
<p><b>Manuel Ramirez, CPA</b> Mr. Ramirez held the office of Vice President from 2008 to 2009, and also served as President from 2009 to 2010. Mr. Ramirez is currently President/CEO of RJI Ramirez Jimenez International CPAs, has served on over two dozen other philanthropic and business organizations, and is co-founder of Hispanic 100, an organization working to further the development of local, national and international Hispanic business and political leaders.</p>	December 21, 2010	November 26, 2014	Governor

<p><b>Michael M. Savoy, CPA</b> Mr. Savoy is managing director at Gumbiner Savett Inc. He previously served as partner at Savoy &amp; Colin. Mr. Savoy is chairman of the board of the Americas Region of BKR International, a member of the Los Angeles Chamber of Commerce Board of Directors, and a member of the Employee Stock Ownership Plan Association.</p>	December 21, 2010	November 26, 2013	Governor
<p><b>David L. Swartz, CPA</b> Mr. Swartz held the office of Vice President from 2005 to 2006, and also served as President from 2006 to 2007. He previously served as senior partner of Good Swartz Brown &amp; Berns, LLP. Mr. Swartz is currently a guest lecturer at several Southern California universities, and serves on the boards of several other charitable foundations.</p>	November 24, 2008	November 26, 2011	Governor
<p><b>Lenora Taylor, Esq.</b> Ms. Taylor held the office of Secretary/Treasurer in 2009. She is currently an attorney for the Law Office of Lenora Roland Taylor, and served as an associate with the law firms Reuben &amp; Alter and Sommers, Schwartz, Silver, &amp; Schwartz. Ms. Taylor also served as a special assistant United States attorney to the chief counsel for the Department of Treasury, and a former associate professor with California State University, Hayward.</p>	May 3, 2007	November 26, 2010	Governor
<b>Vacant (Public Member)</b>			

CBA currently has eight committees to deal with licensing, enforcement, legislative and education issues. The Enforcement Advisory Committee provides assistance and expertise in licensee investigations. The Qualifications Committee reviews the experience of applicants for licensure and makes recommendations to the CBA. The Accounting Education Committee is a temporary committee established to advise the CBA on accounting study to enhance the competence of students as practitioners and promote consumer protection. The Ethics Curriculum Committee is also a temporary committee which recommends to the CBA ethics study guidelines. The Peer Review Oversight Committee provides oversight to the Peer Review Program. The Committee on Professional Conduct considers issues relating to professional conduct. The Enforcement Program Oversight Committee reviews policy issues related to the Enforcement Program and oversees program compliance. Lastly, the Legislative Committee reviews, recommends and advances legislation.

The CBA is a special fund agency, and its funding comes from licensing fees, and also receives revenue through its citation and fine program. Currently, the initial license fee for CPAs is \$200 and the biennial renewal fee is \$200. The initial and biennial renewal accounting firm permit fees are \$200. The total revenues anticipated by CBA for fiscal year (FY) 2010/2011 is \$13,249,000, for FY 2011/2012, it is \$9,884,000 and for FY 2012/2013, it is \$9,859,000. CBA's anticipated expenditures for FY 2010/2011 is \$12,210,000, for FY 2011/2012, it is \$11,452,000, and for FY 2012/2013, it is \$11,681,000. CBA spends approximately 40-45 % of CBA's total budgeted expenditure authority on its Enforcement Program. CBA anticipates it would have 12.2 months reserve at the end of FY 2010/2011, 9.6 months reserve at the end of FY 2011/2012, and 7.8 months reserve at the end of 2012/2013.

Currently, CBA is authorized to hire 82 permanent positions and 2 limited term positions. (It should be noted that it also has the ability to hire retired annuitants as well which are not considered as permanent positions. There are approximately 8 retired annuitant positions authorized by the CBA.) Currently, there are 14 vacant positions, representing a 17% vacancy rate (and 7 vacant retired annuitant positions). Specifically, the Enforcement Program has 20 permanent positions, 4 of which are currently vacant (and 5 retired annuitant positions which are vacant). The Investigative Unit of the Enforcement Program currently has 7 authorized Investigative CPA positions (and 3 retired annuitant positions), of which only 3 are filled. This leaves the CBA with a 57% vacancy of available resources to perform investigations (and 70% vacancy if the retired annuitant positions are considered).

## **PRIOR SUNSET REVIEW: CHANGES AND IMPROVEMENTS**

CBA was last reviewed by the former Joint Legislative Sunset Review Committee (JLSRC) in 2004. At that time, the JLSRC raised five issues with several recommendations. The following are actions that the CBA took over the last six years to address many of these issues. Those items which were not addressed and which may still be of concern to the Committee are addressed and more fully discussed under the “Current Sunset Review Issues” section of this Paper.

On October 1, 2010, the CBA submitted its required sunset report to the Committee. In this report, the CBA described actions it has taken since its prior review to address the issues and recommendations of the JLSRC. The CBA addressed all of the six issues raised by the JLSRC and complied with the recommendations of the Joint Committee. The following are some of the more important programmatic and operational changes and enhancements which the CBA has made, and other important policy decisions or regulatory changes undertaken, since the prior sunset review of the CBA:

- The CBA was granted statutory budget expenditure authority to deal with the costly investigation and prosecution of large accountancy firms for “audit failures.” SB 1543 (Figueroa) Chapter 921, Statutes of 2004, required the Department of Finance to authorize up to \$2 million in additional expenditures to the Accountancy Fund for CBA’s enforcement and litigation activities.
- The CBA was granted increased fining authority to deal with violations of the Accountancy Act by larger accounting firms. The CBA now employs a two-tiered fining structure: The first tier provides for fines of up to \$5,000 for the first violation, and up to \$10,000 for subsequent violations. These fines can be imposed on individuals or firms for any violation of the Accountancy Act. The second tier provides for significantly larger fines for violations such as criminal convictions, fraud, gross negligence, fiscal dishonesty, and embezzlement. For these violations, individuals can be fined up to \$50,000 for the first violation, and up to \$100,000 for repeated violations. Firms can be fined up to \$1 million for the first violation, and up to \$5 million for subsequent violations. To ensure that fines are assessed in a judicious manner and focused on consumer protection, the CBA has adopted regulations that provide criteria for assessing fines, including the extent of consumer harm, and the severity of the violation.
- Significantly reduced the backlog of licensing applications by augmenting CBA’s Licensing Unit staff.

- Employed a number of strategies to address the CBA’s continued difficulty in recruiting and retaining Investigative CPA staff, including:
  - Reorganizing the Enforcement Division to include Investigative Analysts. The analysts perform non-technical investigations that do not require a CPA license, including practice without permit, Continuing Education deficiencies, and practice with an expired license.
  - Providing continuous civil service testing for the Investigative CPA classification.
  - Re-classifying the Enforcement Chief position to that of a Career Executive Assignment, thereby expanding the available candidate pool.
  - Working with the Department of Personnel Administration to create a Pay Differential for the Investigative CPA series.
- To increase transparency of all CBA activities, the CBA began posting notice of all accusations on its Website, and is also providing a live Webcast of all CBA meetings, and posts all meeting materials and minutes on the CBA Website.
- Beginning June 2009, the Continuing Education Audit Program was reinstated to ensure that licensees are complying with CE requirements.
- Establishment of computer based testing for the Uniform CPA Examination, decreasing application processing time, and delays experienced in receiving applicant scores.
- Legislation was passed which continued with two new pathways to licensure (called, “Pathway 1” and “Pathway 2”), and eliminated a third Pathway option (which was called, “Pathway 0”). The Pathway 0 option, allowed for consideration of an applicant for licensure that had less than a baccalaureate degree. For licensure as CPA, Pathway 1 requires a completion of a baccalaureate or higher degree, including 24 semester units in accounting and 24 semester units in business related subjects, passing the examination prescribed by the CBA, and 2 years of qualifying experience (120-hour pathway). Pathway 2 requires completion of a baccalaureate or higher degree, as specified, including 24 semester units in accounting and 24 semester units in business related subjects, passing the examination prescribed by the Board. In addition, requires proof of completion of at least 150 semester units (including the baccalaureate degree), and one year of qualifying experience (150-hour pathway). Both pathways to licensure include an option to obtain the authority to sign reports on attest (audit) engagements.
- Created the “Practice Privilege Program,” which allows out-of-state licensees to practice in California without a California license, as long as they notify the CBA and meet specific requirements.
- Established the Peer Review Task Force to consider implementation of accountancy peer review in California, and eventually recommended mandatory peer review after several years of discussions. Subsequently, the CBA sponsored AB138 (Hayashi), Chapter 312, Statutes of 2009, which requires firms providing audit, attest or compilation (accounting and auditing

services) to undergo a systematic review or peer review to ensure that work performed conforms to professional standards. Peer review is required for these firms every three years, until January 1, 2014, as a condition for license renewal.

- In an effort to protect client confidential information when an accounting firm outsources tax preparation, legislation was passed which requires licensees to inform a client in writing and obtain a client's written permission for disclosure in the event that tax information may be sent to another country.
- Updated the CBA Strategic Plan, which included a change to the official mission and vision of the CBA with an emphasis on consumer protection, and changes to the goals necessary to achieve that mission.
- In March 2008, established the "Ethics Education and Licensing Frequency Task Force," which was charged with the update and revision of the CBA's Professional Conduct and Ethics rules and requirements.
- In January, 2010, newly enacted regulatory amendments required that all licensees renewing a license in an active status complete a specified number of CE hours in certain subject matter areas on an annual basis to fulfill the 80 hour two-year requirement for CE.
- The CBA was instrumental in the creation of the National Association of State Boards of Accountancy (NASBA) Accountant Licensee Database (ALD). The database became operational in early 2010, and by the middle of 2010 CBA staff began utilizing the database to ensure that CPAs applying for licensure from another state are actually licensed, and do not have any pending enforcement action in another state.

## **CURRENT SUNSET REVIEW ISSUES**

The following are unresolved issues pertaining to CBA, or areas of concern for the Committee to consider, along with background information concerning the particular issue. There are also recommendations the Committee staff have made regarding particular issues or problem areas which need to be addressed. CBA and other interested parties, including the professions, have been provided with this Background Paper and can respond to the issues presented and the recommendations of staff.

### **LICENSING AND PRACTICE ISSUES**

**ISSUE #1: (CREATE A RETIRED LICENSE STATUS?) Should the CBA be given statutory authorization to provide for a "retired" license status rather than the current status of "inactive", "delinquent," or "surrendered."**

**Background:** According to the CBA, presently, licensees who wish to retire and no longer renew their license have only two choices available. Licensees may either allow their license to expire and eventually cancel, or they may voluntarily surrender their license. The primary complaint from

licensees regarding these options is the negative connotation associated with “cancelled” or “surrendered.” Neither of these options indicates that the licensee has elected to retire, but suggest the licensee was subject to some form of discipline. Licensees who have practiced for many years are proud of their service to the profession and believe a “delinquent,” “canceled,” or “surrendered” status is undignified.

The CBA conducted a Customer Satisfaction Survey on its Website. Licensees have provided specific comments regarding a retired status, such as:

- “Surprised to find out the board does not have a category called retired rather than showing the member as a deadbeat for non-payment of membership dues.”
- “It is not reasonable to require full fees for retirees. Failure to pay fees for a retiree should not result in a ‘delinquent’ status.”
- “I don't want my file to indicate my certificate was cancelled, but that it is retired.”
- “I am unhappy I have to pay the same fee as active. There should be a retirement status.”

Currently, if a licensee elects not to renew and allow the license to expire, the license status will reflect “delinquent” on the CBA Website. It will remain delinquent until five years from the license expiration date after which it will reflect “canceled.” Licensees choosing to voluntarily surrender their license must submit a written request to the CBA, and prior to processing the request, staff verifies with the Enforcement Division that the license has not been suspended or revoked, and that there are no pending disciplinary actions or complaints. If a licensee chooses to voluntarily surrender the license, the license status will reflect “surrendered” on the CBA Website.

Between January 1994 and December 1998, the CBA offered a retired option to licensees. This option allowed licensees to request a retired seal that would be affixed to their wall certificate. By requesting a retired seal, licensees were in fact voluntarily allowing their licenses to expire, but were afforded the ability to use the designation “Retired Certified Public Accountant” or “Retired Public Accountant.” Licensees were no longer allowed to practice public accountancy, but could continue to perform bookkeeping, tax, financial planning, or management consulting as described in Section 5051 (f) through (i) of the Accountancy Act, since these functions did not require individuals to maintain a CPA/PA license. Retired licensees intending to render tax preparation services were required to either register with the Internal Revenue Service as an enrolled agent, or register with the California Tax Education Council, which is a nonprofit organization created by the Legislature that requires tax preparers to be bonded, have a certain level of education and continuing education.

The issuance of a retired seal did not affect the status of the license. After the CBA issued a retired seal, licensees simultaneously held a retired seal and an expired license. As with all expired licenses, for a five-year period, licensees could reinstate their license to an active or inactive status by paying all applicable license renewal fees, and fulfilling all continuing education (CE) requirements should the license be reinstated to an active status. After the five-year period had elapsed, the license was canceled, though licensees could continue to display the wall certificate with a retired seal and hold out as a retired licensee.

In 1996 the CBA became aware that some licensees were attempting to avoid disciplinary action by requesting a retired seal while a disciplinary matter or citation was pending. This was a cause for significant concern as the CBA had no legal mechanism to deny or delay the issuance of a retired seal to a licensee with a pending disciplinary matter. Additionally, licensees with revoked licenses were

permitted to continue to display their certificate with the retired seal. This appeared inconsistent with the CBA's intent to provide the seal as a positive acknowledgement of licensees' years of service in the profession.

Based on these concerns, the CBA sponsored legislation to eliminate the retired option for licensees, and on January 1, 1999, Business and Professions (B&P) Code Section 5070.1 was repealed. Since that time the CBA has not issued retired seals or permitted licensees to use the designation "Retired Certified Public Accountant" or "Retired Public Accountant." Subsequent amendments to the B&P Code allow a retiring CPA/PA to continue to display the wall certificate, provided the license was not suspended or revoked, and retired licensees may use the CPA or PA designation in a social context, with or without the word "retired." Retirees, however, may not use the CPA or PA designation or perform any activity defined as the practice of public accountancy.

In light of the concerns raised by licensees, in July of this year, the CBA began reconsidering a retired license status. The CBA believes that by building on past experience it is possible to create a retired status that is beneficial to all stakeholders. By crafting legislation that allows for a retired status, while still providing a legal mechanism for the CBA to deny a retired status based upon enforcement action, a compromise is possible between the licensees requesting a retired status, and the ability to protect California consumers from CPAs trying to avoid enforcement action.

**Staff Recommendation:** *As recommended by the CBA, statutory authorization should be granted to the CBA to create a retired license status for CPAs.*

**ISSUE #2:** (SUNSET OF CBA'S PEER REVIEW PROGRAM?) **Should the sunset date of the CBA's Peer Review Program (PR Program) be extended until such time the CBA is able to provide a comprehensive Report on the progress and performance of the PR Program and there is sufficient time for this Committee to review the Report?**

**Background:** The CBA has examined and considered peer review as an important topic for professional improvement and oversight of CPA's since 2000. The CBA organized a Peer Review Task Force that held public meetings between 2002 and 2003, concluding with an interim peer review report that was provided in its *2003 Sunset Review Report*. The interim peer review report requested additional time to evaluate peer review, and an extension of time to submit a final peer review report in 2005.

Continuing in 2004, and completing in the middle of 2005, the CBA's Peer Review Task Force resumed work on peer review. At the conclusion of the Peer Review Task Force's meetings, the CBA issued its *2005 Peer Review Report*. This report supplemented the 2003 interim report and provided updated information and analysis pertinent to whether peer review should be mandated in California. The 2005 report concluded with a recommendation to delay implementing mandatory peer review and offered several recommendations related to future CBA consideration of peer review.

Between May 2007 and September 2008 the CBA began re-examining the merits of implementing a mandatory peer review program in California and reviewing recommendations outlined in the *2005 Peer Review Report*. During this time the CBA held several public meetings in an effort to pursue potential legislative action in the 2009-10 Legislative Session. Over the course of these meetings, the CBA evaluated issues that included, among others, participation, program oversight, and program administration. These meetings resulted in the issuance of the CBA's *2008 Peer Review Report*. This

report outlined the history of the CBA's consideration of peer review, a review of policy issues considered by the CBA during these meetings, and a discussion on the need for mandatory peer review.

As the result of extensive consideration of peer review, the CBA elected to sponsor legislation – AB 138 (Chapter 312, Statutes of 2009) – which, on January 1, 2010, implemented a mandatory peer review program for California. AB 138 required firms providing audit, attest, or compilation (accounting and auditing) services to undergo a systematic review (peer review) to ensure that work performed conforms to professional standards. Peer review is required for these firms every three years as a condition for license renewal.

The CBA established a phase-in period for undergoing and reporting peer review information. Firms with a license number ending in 01-33 must report peer review-related information no later than July 1, 2011; Firms with a license number ending in 34-66 must report peer review-related information no later than July 1, 2012; and Firms with a license number ending in 67-00 must report peer review-related information no later than July 1, 2013. Firms receiving a substandard peer review report (in essence a failed grade) will be required to submit the report directly to the CBA. These reports will be reviewed by the CBA's Enforcement Division to determine if CBA action is appropriate.

Peer reviews will be performed by CPAs knowledgeable in generally accepted accounting principles and generally accepted auditing standards. The CBA will use outside organizations, such as the American Institute of Certified Public Accountants Peer Review Program, to assist in the administration of peer reviews. Firms will be required to enroll in a CBA-recognized peer review provider's program, which will work with Firms to: (1) select peer reviewers with a currency of knowledge of the professional standards related to the type of practice to be reviewed; (2) review and accept peer review reports; and, (3) ensure timely completion of the peer review process. The Firm pays the Peer Reviewer for their services directly, thus ensuring no further administrative costs to the CBA or the licensee.

To ensure the effectiveness of mandatory peer review, AB 138 required the CBA to establish a Peer Review Oversight Committee (PROC), the purpose of which is to engender confidence in the peer review program from consumers and the profession. The PROC is authorized to request any information and materials deemed necessary to ensure that peer reviews are administered in accordance with the standards established by the CBA in regulation. The PROC will use these materials when performing peer review program provider site visits and participating in peer review program provider's peer review report acceptance meetings. At its July 2010 meeting, the CBA appointed six of the seven members to the PROC. The CBA anticipated that the PROC would hold its first public meeting in September/October, 2010.

The CBA believes that a mandatory peer review program will have significant benefits to the California accounting profession. First, improving the services provided by California-licensed Firms. Firms going through the rigor of peer review will be better equipped to perform quality accounting and auditing engagements. In an ever-changing financial climate and with constant updates to generally accepted accounting principles and auditing standards, it is imperative that work products provided to consumers adhere to adopted professional standards. Firms preparing for and undergoing a peer review can refine and improve internal systems to ensure work products meet professional standards, as well as develop and refine the technical skills of their employees.

Second, mandatory peer review will help to increase consumer confidence, which is paramount to a healthy economy, both on a state and national level. In part, this is achieved when consumers feel that firms providing accounting and auditing services do so in accordance with the highest level of professional standards. By requiring peer review, the CBA demonstrates its commitment to enhance the quality of services provided by CPAs and accounting firms, which, in turn, contributes to the public's increased trust in the accounting profession.

Finally, and most importantly as indicated by the CBA, peer review will provide increased consumer protection. Firms meeting minimum professional standards, but that could benefit from increased education and training, will be required to complete specified remedial or corrective actions, such as continuing education. Firms determined not to have met minimum professional standards will receive substandard reports, which as noted earlier, require submission of the reports to the CBA to determine if CBA action is appropriate or necessary.

Pursuant to B&P Code Section 5076(o), the PR Program will sunset on January 1, 2014. B&P Code Section 5076 also requires the CBA to submit a Report to the Legislature and Governor on January 1, 2013, detailing the impact of peer review on small business, and the benefit to consumers that utilize those small business services. The CBA initially indicated to the Committee that it would like to see the sunset date of the PR Program removed and that the date for the Report to the Legislature and Governor moved to January 1, 2016, so that it would have sufficient time to have completed peer review on a larger number of small business firms. Providing a Report at this late date would not be consistent with the next Sunset Review of this Board which will be scheduled in 2015, which will include a review of all of its programs. And the sunset date of the PR Program should not be eliminated until such time that this Committee has had sufficient time to review and consider the Report of the CBA. The Report should also be expanded to require a more comprehensive study on the progress and the performance of the PR Program.

**Staff Recommendation:** *The sunset date of the PR Program should be extended to January 1, 2016 to correspond to the next Sunset Review of the CBA. The Report of the CBA as required by AB138 should also be expanded to include information on the progress and performance in the implementation of the PR Program and the Report should be provided to the Legislature and the Governor's Office by January 1, 2015. This will provide two more years for the CBA to complete this Report.*

### **ENFORCEMENT ISSUE**

**ISSUE #3:** (IT APPEARS AS IF DISCIPLINARY CASE MANAGEMENT TIMEFRAME IS TAKING ON AVERAGE ABOUT TWO YEARS.) Will the CBA be able to meet the DCA'S goal of reducing the average disciplinary case timeframe from two years or more to 12-18 months?

**Background:** It takes on average about 2 years from the receipt of a complaint by the CBA to the final disciplinary action of the Board. There was an improvement by CBA in FY 2009/10 when the case processing timeframe dropped to 22 months, and this indicated a drop of about 100 days since FY 2006/07, but recent enforcement statistics provided by the DCA show the CBA is holding now at 2 years. As part of this 2 year timeframe, cases referred to the Attorney General's Office take from 5 months to 11 months for the CBA to receive a completed accusation and one year or more till final

disciplinary action is taken either by settlement of the case or order of an Administrative Law Judge and/or the CBA. Therefore, investigations by the CBA are taking on average about 8 months to complete. This is much better than other boards which must rely on the Division of Investigation of the DCA to investigate their cases. The CBA is unique in that its Investigative Unit is required to have "CPA Investigators." (It should be noted that CBA received about 561 complaints in FY 2009/10, and 621 in 2010, as indicated from DCA enforcement statistics. The number of complaints received by CBA has been growing steadily. About 60 percent of all complaints are now referred for investigation, based on a recent way in which the DCA now defines investigations, and approximately 6 percent of the complaints referred for investigation proceed to accusation by the AG. Only about 8 percent of complaints against a licensee result in actual disciplinary action; probation, revocation or surrender of the license. In other words, for 2010, out of 621 complaints there were only about 27 cases referred to the AG, 16 accusations filed and 21 disciplinary orders rendered on behalf of the CBA. )

As has been pointed out for other boards under the DCA, the CBA is not alone in its problems related to its lengthy disciplinary process. One of the primary reasons given that investigations may move slowly is that the CBA is unable to adequately staff its investigative unit because of the requirement that their investigators be in the classification of "Investigative CPA."

The CBA has taken steps to try and rectify this problem, but so far has been unsuccessful in fully staffing its Investigative Unit; out of 7 permanent positions for CPA investigators, 4 of those positions are vacant, and all three of the positions for a "Retired Annuitant" with the Investigative CPA classification are vacant as well. The ability to fully staff the Investigative Unit with CPA investigators has been an ongoing problem with the CBA for years.

The CBA has employed a number of strategies to address the continued difficulty in recruiting and retaining CPA Investigative staff. One of the changes made by the CBA was to reorganize its Enforcement Program to enable non-CPA investigators to perform non-technical investigations such as practice without permit, Continuing Education deficiencies, and practice with an expired license, and working with the Department of Personnel (DPA) to create a Pay Differential for the Investigative CPA series. However, the CBA was informed that the Pay Differential, which would include a bonus for the Investigative CPA classification, would only be effective after serving a specified time with the CBA and other requirements to receive this Pay Differential were extremely complex. It was not considered as a good tool for the CBA to use in recruiting CPA investigators. The only other alternative remaining for the CBA is to hope that the DPA and SEIU 1000 will come to some agreement on dealing with the Investigative CPA pay inequity during the collective bargaining process.

The time may have come for the CBA to consider requiring that only a certain number of CPA investigators be required to maintain the expertise that may be necessary for the Board's investigations, and that similar to other licensing boards, non-sworn investigators be utilized by the CBA to investigate disciplinary cases. Since it does not appear that the CBA has been able to obtain more than four CPA investigators for some time, this may be the magic number for the Board.

***Staff Recommendation:*** *It does not appear as if the CBA will be able to meet its goal of reducing the timeframe for the handling of its disciplinary cases to 12 to 18 months. Lack of adequate staffing for its investigative unit and delays at the AG's Office in prosecuting cases, all contribute to the possible average of two years to complete a disciplinary action. Requiring the CBA to have at least four CPA investigators, but allowing the CBA to hire additional investigators who are not of the Investigative CPA Classification, may help to alleviate some of the problems which the CBA has*

*had over many years in recruiting and retaining investigators and in pursuing investigations in an expeditious manner. The CBA should continue, however, to pursue the pay inequity which still exists for those four CPA investigators who are, or will be, employed by the Board.*

**ISSUE #4. (CURTAIL REPORTING OF FINANCIAL RESTATEMENTS BY CPA FIRMS?) Should financial restatements which are submitted to the Securities and Exchange Commission (SEC) or restatements that are solely due to a change in law, rule or standards, be excluded from the reporting requirement of the CBA?**

**Background:** Business and Professions Code Section 5063 (b), which was enacted in 2003, required a CPA to report to the CBA in writing any restatement of a financial statement and related disclosures by a client audited by the licensee. A restatement is basically the reissuing of an audit report on financial statements that includes the correction of an error in financial statements previously issued to the client, or adjustment to opening balances due to errors in the previous period.

A related regulation which was effective January 23, 2004, (California Board of Accountancy Regulations Rule 59) was adopted to further define the reporting requirement under Section 5063(b). Under Rule 59, a licensee who issues a report on a client's restated financial statements shall report to the Board any restatement of a financial statement reporting the correction of any error in a previously issued financial statement of a client that is:

- A publicly traded company required to file a tax return with the California Franchise Tax Board.
- A governmental agency located in California when the restatement(s) exceeds the planning materiality used in conjunction with the current year audit.
- A charitable organization registered by the Office of the Attorney General's Registry of Charitable Trusts, when the restatement has resulted in the filing of an amended or superseding Internal Revenue Service Form 990 or 990PF.

The report required under Section 5063 shall be made by the licensee issuing the report on the restatement, even if the licensee did not perform the original audit. The report must be provided to the CBA within 30 days of issuance of the restatement, be signed by the licensee, and set forth the facts constituting the reportable event.

Rule 59 requires that the report of restated financial statements for publicly-traded companies and governmental agencies must include copies of the original and the restated financial statements. The report involving a charitable organization should include only those portions of the original and amended Forms 990 or 990PF related to the reissued financial statements.

The CBA indicates that since the enactment of the restatement reporting requirement, it has received 2382 restatements, and of those, 1274 have also gone to the SEC. The CBA has also estimated that of the total restatements received, about 20% (or about 475), are solely due to a change in law, rule or standards. The CBA claims that of all the restatements received since 2003, not a single restatement has resulted in an enforcement action. The CBA has proposed that Section 5063 be amended so a CPA only has to submit restatements if they have not been submitted to the SEC, or that have been issued solely due to a change in law, rules and regulations, or standards.

It has been argued that one of the most important reporting requirements applies to restatements of financial statements – which essentially constitute an admission that prior financial statements contain

material misrepresentations or omissions. Accounting restatements are central to the public policy debate concerning the quality of externally reported financial statements for publicly traded companies. The public trust depends upon the confidence investors place in reported financial statements when making their initial and ongoing investment decisions. The SEC has stated it considers accounting restatements as “the most visible indicator of improper accounting.”

It has been indicated in some studies that the incidence of reporting of financial restatements has increased significantly over the years. One of the reasons pointed out was the implementation of the federal Sarbanes-Oxley Act of 2002, in the aftermath of the Enron/Anderson/WorldCom accounting fraud scandals. This Act required large public companies to document, test and report on internal controls over financial reporting, and auditors were required to attest to management’s internal control over financial reporting assertions. Efforts to implement this process increased the frequency of identifying financial misstatements leading to an increase in financial restatements. Also, with the issuance of new and complex accounting standards over the past several years, there has been a general increase in accounting errors related to the application of these standards, and therefore, an increase in restatements as well. Another more important reason for the increases in restatements has been the overly aggressive accounting practices of companies, investment firms and banks. Studies have been done to show a correlation between certain questionable accounting practices of these businesses and the increase in restatements. It is interesting to note that with the loss of billions of dollars by the public in their pension funds (public and private), investment funds, and in the housing market, that little if any investigation has been done by this State regarding restatements, particularly since most restatements are reported by the large accountancy firms (By 2010, 510 from Deloitte Touche Tohmatsu, 352 from PricewaterhouseCoopers, 202 from KPMG, 60 from Ernst & Young: this is almost 50% of the restatements currently received by the CBA). If those firms which currently report to the SEC are exempt from the restatement reporting requirement, it is more than likely that there would be little if any reporting of restatements by the large accountancy firms and therefore little oversight by the CBA of what may be considered as “improper accounting” by these firms. The SEC would have to be entrusted with this responsibility even though California consumers may be harmed. It should be recognized that the CBA has concurrent and coextensive jurisdiction with the SEC over the large accounting firms; they are licensees of the State of California. The CBA should be careful about ceding its sole responsibility to the SEC.

Part of the justification for the proposal of the CBA, to reduce its workload or oversight of certain types of restatements, should not be because the CBA has insufficient staffing and investigators to review restatements when necessary. Although admittedly the CBA has been provided with additional information about CPA wrongdoing, and with more authority to take appropriate disciplinary action which has increased its workload substantially, the CBA has constantly suffered from inadequate staffing levels, as earlier indicated. Staffing levels have declined to only two investigators, at times, since the enactment of these reporting requirements, and because of limited investigative resources, it has been pointed out that the CBA has on occasions decided to do nothing with restatements that were already being referred to the SEC.

There may still be a good argument and reasons for not encumbering the CBA with restatements that are already being referred to the SEC, but because of the emphasis which the Legislature placed on receiving these restatements to determine auditor failures or misconduct, the implications for curtailing this requirement should be thoroughly examined carefully considered by the Members of this Committee.

**Staff Recommendation:** *For now, the CBA should provide sufficient justification to the Committee on its proposal to exempt restatements submitted to the SEC, or those that have been issued solely due to a change in law, rules and regulations, or standards, from the current restatement reporting requirements of the Board. The CBA should also more clearly define and explain what type of restatements would be exempt from reporting for the purpose of “changes in the law, rules and regulations, or standards.” Limited staffing within the CBA’s investigative unit should not be a reason to curtail the reporting of restatements if they can in the future provide the CBA with some indication of problems with financial statements performed by CPA firms.*

**ISSUE #5. (IS THE CBA SUFFICIENTLY ABLE TO HANDLE LARGE ACCOUNTANCY FIRM CASES?)** There has always been some question whether the CBA is capable, both from a cost and staffing commitment, to investigate and prosecute cases against large accountancy firms. There is also a question as to the disciplinary action or penalties which would apply since to revoke the license of a large firm could have severe consequences for California clients.

**Background:** The CBA is unique in California insofar as it regulates both individuals and firms. The largest firms, known as the “Big Four,” are not just some of the largest firms in this state and the United States, but in the entire world. In addition to the Big Four, a significant group of mid-size firms also exists. In their global offices, Big Four and mid-size firms may employ CPAs licensed by 55 U.S. jurisdictions as well as individuals licensed by other countries.

Oversight of large firms, including individuals employed by those firms, presents considerable challenges in budgeting and funding for the extensive, ever-fluctuating investigative and legal resources required to pursue large firm matters. These barriers are compounded by a cumbersome state contracting process, the necessary acquisition and retention of outside legal resources and technical accounting expertise, lengthy legal procedural timelines, and the consumption of significant internal staff time in meeting all of the requirements of the state’s administrative processes and procedures.

Confirming and proving an “audit failure” by a large firm is a rigorous undertaking, and investigations of complex audit engagements can consume several years and cost the CBA millions of dollars. To meet the challenges of pursuing large firm matters, the CBA needs a technically proficient staff of Investigative CPAs, ready access to technical consultants on complex accounting issues, and outside legal counsel to assist the AG’s Office. In the previous disciplinary structure, no action existed between probation (and attendant terms) and license suspension/revocation. The passage of SB 1543 (Figueroa, Chapter 921, Statutes of 2004) remedied this problem somewhat by providing the CBA with additional fining authority as necessary. The CBA now has authority to fine large accounting firms up to \$1 million for initial audit failure, and \$5 million for subsequent violations. It is unclear, however, what other sanctions or actions the CBA may take against a large firm if it has been found to have been involved in the use of improper accounting standards, or even worse, accounting fraud, falsification or concealment.

The CBA’s annual Enforcement Program budget includes approximately \$2 million to pay for outside attorneys, consultants, expert witnesses and costs incurred by the AG’s Office and Office of Administrative Hearings, which enable the CBA to pursue investigations, including those of large and complex cases. Because this amount is appropriated annually, any portion of the \$2 million not spent during the given year cannot be held over for the subsequent years. However, when a large firm matter occurs generating the extreme funding demands that such a case requires, \$2 million could be spent

quickly in pursuing a single case. SB 1543 resolved this problem as well and required the Department of Finance up to \$2 million in additional expenditures for the CBA's enforcement and litigation activities.

Although additional funds may be available for these types of cases, it is also critical that the CBA's enforcement staff include a sufficient number of Investigative CPAs who are skilled in both accounting and the nuances of enforcement given the complex technical accounting issues that arise in large firm cases. Currently, as earlier indicated, the CBA has less than half of the authorized positions filled for its CPA investigator unit, and even if available, the hiring freeze prevents the CBA from filling these positions. It would appear as if the CBA may have an insufficient number of qualified CPA investigators to pursue multiple large firm matters and simultaneously handle the increased workload in cases the CBA currently handles. Also, with over \$31 million in loans to the General Fund (see discussion under "Budget Issues") and with current spending authority restrictions, present resource limitations could preclude or severely hamper the Board from actively investigating and prosecuting possibly more than one large firm case at a time.

A recent case may highlight this point. State Controller John Chiang recently investigated and issued a report regarding the audit firm of the City of Bell. The report pointed out many deficiencies in the audits performed by this audit firm and indicated that it failed to follow the majority of applicable generally accepted fieldwork audit standards. As stated by the State Controller Chiang, the audit firm "appears to have been a rubberstamp rather than a responsible auditor committed to providing the public with the transparency and accountability that could have prevented the mismanagement of the City's finances by Bell officials." The Controller referred this report to the CBA for investigation and possible prosecution. The question is will the CBA be able to take the appropriate action against this firm with its current staffing and resource limitations?

***Staff Recommendation:*** *The CBA should assure the Committee that it will have sufficient staffing and resources available to handle large firm cases like the one dealing with the City of Bell and other cases which may come to the attention of the CBA. The Board should also indicate to the Committee what are the potential consequences and outcomes for a large firm, besides the penalty and fine provisions, when it is found to have violated the Accountancy Act.*

## **BUDGET ISSUE**

**ISSUE #6.** (SUPPORT THE EXEMPTION OF THE CBA FROM THE HIRING FREEZE?)  
**Should the Committee support the efforts of the CBA in its request to the DCA and the Department of Finance to exempt the CBA from the current hiring freeze for their Enforcement and Licensing Programs?**

**Background:** According the CBA, its mandate to protect the public is being compromised and California consumers are being exposed to undue risk of harm, due to this agency's inability to hire investigators and support staff in its Enforcement and Licensing Programs. To rectify this situation, the CBA has requested the DCA to seek approval from the Governor's Office to remove its recruitment restraints which, they argue, is leading to its inability to protect consumers to the extent they should be, and deserve to be, protected under the law. The request is supported by formal action taken by the CBA at its January 27-28 meeting in Irvine, CA and is regarded by the CBA as critical to

the Board achieving its legislative mandate as stated in Business & Professions Code Section 5000.1 which reads

*“Protection of the public shall be the highest priority for the California Board of Accountancy in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.”*

Presently, as indicated by the CBA, their Enforcement Program has a growing backlog of complaints, each one, as stated by the Board,” representing a threat to the health, safety and financial well-being of California consumers.” Over the past year the backlog of pending investigations increased from 146 in January 2010 to 277, as of December 2010. During that same period, the average number of days investigations remained in pending status rose from 189 in January 2010 to 249 as of December 2010.

Presently, the 57% vacancy rate in the CBA’s Investigative CPA positions leaves only three (3) technical investigators to oversee the activities of its 85,000 licensees. The four (4) vacant Investigative CPA staff positions [and the three (3) vacant Retired Annuitant positions] are at the heart of the CBA’s growing backlog of consumer complaints, and as stated by the CBA, “raise a serious question as to the efficacy of the Enforcement Program and the CBA’s ability to protect the consumers.”

Presently, the Licensing Program, which, as the CBA explains, is the “gate-keeper” ensuring that individuals becoming California-licensed accountants meet and maintain educational, examination and experience requirements has a backlog of 14,000 license renewal applications that have not been reviewed to verify continuing education requirements are met. The CBA argues that this backlog clearly reflects that the CBA is insufficiently staffed to confirm licensees have completed continuing education aimed at ensuring continued competency and currency of knowledge, whereas backlogs in other licensing functions that have arisen in the recent past represent barriers to individuals becoming licensed and beginning a career or starting a business in the accountancy profession.

As stated by CBA, “[p]resently, California consumers are being exposed to potential harm from negligence, incompetence and wrongdoing by accounting professionals, due to the CBA’s inability to hire investigators and support staff in its Enforcement and Licensing Programs. This is not the standard of consumer protection the State of California owes to its populace. The importance of the CBA’s charge and mandate to protect the public cannot be over-stated. Quite simply, there is a growing recognition that accounting fraud perpetrated on an individual potentially strips not only a victim’s financial assets, but also the victim’s sense of well-being, trust, self-confidence and in some cases, life. A quick Internet search reveals numerous instances where victims of financial scams have ended their lives rather than face the embarrassment, humiliation and depression resulting from the fraud. A well-known case that reveals this sad outcome occurred in 2009, when William Foxton, a former soldier, committed suicide because he could not face the shame of going bankrupt after becoming a victim of the multibillion-dollar Bernard Madoff fraud.”

The CBA points out that the current staffing status at the Board been largely unavoidable. During the past two years, the Enforcement Division experienced a large number of retirements, including the Enforcement Chief, the Supervising Investigative CPA, and one-half of all Investigative CPA staff. This loss of staff, coupled with furlough programs dating back to February 2009 and past and current hiring freezes, are the proximate causes of current vacancies and the unacceptable increase in the backlog of complaints, as indicated by the CBA.

As indicated earlier, CBA has implemented a number of internal changes focused on mitigating the backlog in pending investigations. Staff have been redirected from other program areas to create a Non-technical Investigations Unit, and changes have been incorporated into the Investigative CPA civil service testing process that allow for a continuous recruitment of qualified individuals into this critical investigative classification. However, unless the CBA is able to engage additional staff resources, “there is no end in sight to the increasing backlog in the number of investigations, the time-frame for conducting investigations, and the confirmation of continuing education in the license renewal process,” as stated by the Board.

To this end, the CBA has specifically requested authority as a special funded agency, receiving all of its revenues from licensing fees, to request relief from the current hiring freeze and has submitted a “Hiring Freeze Exception Request” and has stated that the primary reason for the request is that if not granted, then the *“Financial safety of public is compromised. [There is an] [i]ncreased potential for fraud to occur, with attendant financial and emotional distress leading to possible life and safety issues.”*

**Staff Recommendation:** *The Committee should consider expressing to the Senate and Assembly Budget Committees, the Department of Finance and the Governor’s Office the need to approve the “Hiring Freeze Exception Request” from the CBA.*

**ISSUE #7: (CBA UNABLE TO CONTROL RESERVE LEVEL IN ACCOUNTANCY FUND.)**

**The CBA has been unable for the most part to comply with the requirement that its contingent reserve fund equal only a specified number of months of estimated annual authorized expenditures.**

**Background:** The CBA has for years had a problem with maintaining its contingent fund reserve balance to the statutory requirement that it not exceed the required months of estimated annual authorized expenditures. Section 5134 (f) of the Business and Professions Code currently mandates the Board to fix the biennial renewal fees so that the Board’s reserve is approximately equal to nine months of authorized expenditures. When it was required to maintain no more than three months, the CBA had to adjust initial permit fees and biennial renewal fees four times since April 1995. The last adjustment being in July 2000 raised the renewal fee back from \$50, back to the April 1995 level of \$200. In 2001, it was changed to no more than 6 months and then in 2004 was changed to the current no more than 9 months.

After these concerted efforts, the Board was able for a time to reduce the reserve close to the mandated level, but since FY 2007/08, the months in reserve have gone from 24 months, to 16 months in FY 2008/09, to 19 months in FY 2009/10. In FY 2010/11, the months in reserve were close to statutory maximum of nine months. However, for FY 2011/12, it was estimated that the months in reserve would be 16.4 months and in FY 2012/13, 13.2 months. (This was in anticipation of a repayment of \$10 million loan to the General Fund.) It should be noted that at the same time the CBA has also been required to make loans to the General Fund of \$6 million in FY 2002/03, \$270,000 in FY 2003/04, \$14 million in FY 2007/08, \$10 million in FY 2010/11, and another \$1 million estimated for FY 2011/12. This leaves a grand total of loans owing the CBA of \$31,270,000 million; the highest amount owing as compared to all the other boards under the DCA. If these loans are paid back (which they are required to be) at some time in the future, the CBA will more than likely find itself well beyond its statutory requirement of only maintaining no more than nine months reserve.

One reason for the difficulty may be the fluctuating amounts of revenues the Board receives and the potential it has for large expenditures of funds if its enforcement costs increase because of a major case against one of the major Accountancy Firms; this has happened to the CBA in the past. While theoretically it may be possible to fine tune revenues through frequent fee adjustments, and keeping sufficient reserves, the lengthy timeframes required to revise fee regulations make this strategy impractical and burdensome to administer. More important, the Board has argued in the past, frequent fee adjustments are unfair and confusing to licensees. In spite of this, the CBA is once again in the situation of having to reduce renewal fees from \$200 to \$120. Pending approval of a regulation package, the fee reduction will begin in FY 2011/12.

**Staff Recommendation:** *The CBA should explain to the Committee the current situation which exists regarding its reserve funds and when they anticipate a reduction in fees to meet the current requirement of no more than 9 months in reserve of authorized expenditures. Does the CBA have any recommendation on the way it can deal with excessive reserve funds and still maintain a prudent reserve for unanticipated enforcement expenditures? For example, should the 9 month requirement be eliminated and the CBA revert back to the 2 year requirement under Section 128.5 of the B&P Code for other boards under DCA? (It should be noted that this change is part of the current Budget language being proposed by the Budget Committee.)*

## **CONTINUED REGULATION OF THE PROFESSION BY THE CURRENT MEMBERS OF THE CALIFORNIA BOARD OF ACCOUNTANCY**

**ISSUE #8.** (CONSUMER SATISFACTION WITH CBA IS UNCLEAR.) A Consumer Satisfaction Survey performed by the CBA over the past four years, shows that on average only about 40% of consumers were satisfied with the overall service provided by the Board. However, a follow-up telephone survey conducted by the CBA showed a significant increase in the “customer service” provided by CBA in FY 2010/11 of 78%.

**Background:** To obtain a benchmark for the level of satisfaction with the CBA Enforcement Division, CBA staff created a survey to poll all individuals who filed a complaint that was closed in the past four fiscal years. Because the timeframe was so large, according to the CBA, all complainants were included in the survey sample, with the only exception being internal complaint referrals. A letter was mailed to each complainant inviting them to take the survey online, or to contact the CBA office for assistance completing the survey if needed. Unfortunately, as indicated by CBA, the response rate to the survey was extremely low, less than twelve percent. With a response rate of less than 12 percent on a population size of approximately 1200, the statistical accuracy of the survey is 95%, +/- 20%. The margin of error for a sample this size is too large to accurately interpret the numbers. As such, the CBA argues, that there is some question as to the validity of the data as reflected in its Table 4.9.

Further compounding the validity of the data is the reporting timeframe, as pointed out by the CBA. The responses in Table 4.9 are for cases that were closed in a given fiscal year, but the majority of complaints are not opened, investigated, and closed in a year. There is a possibility that a significant number of complaints reflected in FY 2006/07 and FY2007/08 were received at an earlier date. This is evidenced by the large number of respondents who contacted the CBA to inquire against whom and when they filed a complaint.

	Table 4.9 Consumer Satisfaction Survey Results			
	FY 2006/07	FY 2007/08	FY 2008/09	FY 2009/10
<b># Surveys Mailed:</b>	274	295	307	323
<b># Surveys Returned:</b>	32	26	33	41
<b>% of Surveys Returned:</b>	12%	9%	11%	13%
1. Were you satisfied with knowing where to file a complaint and whom to contact?	78%	80%	91%	73%
2. When you initially contacted the CBA, were you satisfied with the way you were treated and how your complaint was handled?	59%	54%	58%	56%
3. Were you satisfied with the information and advice you received on the handling of your complaint and any further action the CBA would take?	47%	50%	39%	39%
4. Were you satisfied with the way the CBA kept you informed about the status of your complaint?	55%	46%	47%	51%
5. Were you satisfied with the time it took to process your complaint and to investigate, settle, or prosecute your case?	48%	46%	55%	40%
6. Were you satisfied with the final outcome of your case?	43%	33%	29%	25%
<b>7. Were you satisfied with the overall service provided by the CBA?</b>	<b>50%</b>	<b>35%</b>	<b>39%</b>	<b>30%</b>
* Boards under review may conduct a consumer satisfaction survey to determine the public's views on certain case handling parameters. A sample list of questions have been provided. You may use more or fewer questions. Boards may take a random sampling of closed complaints and disciplinary actions for a <u>four year period</u> . Consumers who filed complaints should be asked to review the questions and respond to a 5-point grading scale (i.e., 5, 4, 3 =satisfied to 1, 2 =dissatisfied). The percent of satisfaction for each of the past four years would be provided in the appropriate columns.				

Recognizing the potential inaccuracy in the survey data due to the low response rate, the CBA conducted a telephone survey to corroborate or disprove the results. CBA staff focused on complaints from FY 2009/10, and began contacting complainants via telephone, believing these individuals would have the most current opinion of the Enforcement Division, and may provide the best feedback. The CBA also modified the survey that was provided over the telephone. In order to garner more responses, and to ensure the brevity of the survey, respondents were simply asked if they were satisfied with the service received. (Since the data is reflected in the percent of respondents that were satisfied, this will have no bearing on the data reflected from the survey.)

The telephone survey also omitted question number, “6) Were you satisfied with the final outcome of your case?” The CBA explains that the question was deleted for two reasons. First, the survey was designed to measure the satisfaction rate with the service that was provided by the CBA Enforcement Division. As the outcome of the complaint is often outside of the control of the CBA Enforcement Division, this did not seem to be an appropriate question for this survey. Second, it quickly became apparent that if the CBA did not revoke the licensee’s permit to practice, and refund the fee charged, the complainant was often not “satisfied”.

Table 4.10 reflects the response from the follow-up telephone survey conducted by the CBA. With a 29% response rate, the telephone survey is accurate to approximately 15%.

Table 4.10 Consumer Satisfaction Survey Results	
FY 2009/10	
# Complainants Called:	100
# Complainants Unable to Reach <sup>1</sup> :	21
# Surveys Completed:	23
% of Surveys Returned:	29%
1. Were you satisfied with knowing where to file a complaint?	78%
2. When you initially contacted the CBA, were you satisfied with the way you were treated and how your complaint was handled?	83%
3. Were you satisfied with the information you were provided regarding the CBAs process for handling your complaint?	68%
4. Were you satisfied with the way the CBA kept you informed about the status of your complaint?	68%
5. Were you satisfied with the time it took to process your complaint and to investigate, settle, or prosecute your case?	70%
<b>6. Were you satisfied with the customer service provided by CBA staff?</b>	<b>78%</b>
<sup>1</sup> Includes hang-ups, deceased, and incorrect phone number	

In the future, CBA states that it may be possible to increase the response rate by surveying complainants more quickly after a case is closed. DCA recently created a survey that is mailed to all complainants when their case is closed, and the CBA is participating in this survey. It is anticipated by CBA that it will have a much larger and more trustworthy data set in the future.

The Contractor's Board seems to enjoy a better satisfaction rate in resolving a complaint and the result which it achieves because it tries under certain circumstances to try and mediate disputes first to hopefully bring quicker resolution to the matter and possibly provide some form of restitution to the consumer who has been harmed by the licensee. If there is an issue of competency or violation of law(s) then the Contractor's Board will still proceed with licensing action against the contractor even though the complainants issue has been settled. This Committee should begin to explore the use of mediation or what is called "alternative dispute resolution" (ADR) for health boards and whether they could utilize those trained in ADR or current ADR programs to resolve complaints. Consideration could be made of possibly expanding on the current "Complaint Medication Program" (CMP) of DCA, which provides dispute resolution services primarily to its bureaus, to also include consumers who have problems with their CPA. CMP under DCA deals with difficulties by consumers in purchasing products or business services, and may provide value to CBA in instances where ADR could be utilized when disputes arise (in the form of a complaint to the board) regarding services provided by a CPA.

***Recommendation:*** *The CBA should explain to the Committee why it believes consumer satisfaction regarding the results obtained by the Board for a consumer complaint were initially low and why the follow-up survey may be more accurate. CBA should also indicate what other efforts the Board could take to improve its general service to the consumer. Does Board attempt mediation of complaints and if so, does it believe that it could be used more often to help resolve complaints from the general public, and if not, then could DCA's Complaint Mediation Program be utilized?*

**ISSUE #9. (CONTINUED REGULATION BY THE CBA?) Should the licensing and regulation of certified public accountants be continued and be regulated by the current board membership?**

**Background:** The health, safety and welfare of consumers are protected by a well-regulated certified public accounting profession. The CBA has shown over the years a strong commitment to improve the Board's overall efficiency and effectiveness and has worked cooperatively with DCA, the Legislature and this Committee to bring about necessary changes. The CBA should be continued with a four-year extension of its sunset date so that the Committee may review once again if the issues and recommendations in this Paper and others of the Committee have been addressed.

**Staff Recommendation:** *Recommend that the certified public accounting profession continue to be regulated by the current CBA members in order to protect the interests of the public and be reviewed once again in four years.*