

TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

Staff Report

to the

Sunset Advisory Commission

April 20, 1978

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## INTRODUCTION

This report is submitted pursuant to Section 1.06, Subsection (3) of the Texas Sunset Act and contains a review of the operations of the Texas State Board of Public Accountancy. Termination of the Texas State Board of Public Accountancy has been scheduled for September 1, 1979 unless it is continued by law.

The material contained in the report is divided into three major sections: background, review of operations and conclusions. The Background section contains a brief history of legislative intent and a discussion of the original need for the Texas State Board of Public Accountancy. The Review of Operations section contains a review of the operation of the agency, and uses the self-evaluation report submitted by the agency as the basis of review unless noted. The information contained in the self-evaluation report was verified, and additional data were obtained through interviews and review of agency files and other data sources. The Conclusions section summarizes the import of material developed in the individual criteria, from the standpoint of whether or not Sunset criteria are being met, and develops approaches relative to these findings.

This report is designed to provide an objective view of agency operations, based on the evaluation techniques utilized to date. Together with pertinent information obtained from public hearings, a factual base for the final recommendations to the Legislature will be provided.

## BACKGROUND

## HISTORICAL DEVELOPMENT

The foundation for the present Texas State Board of Public Accountancy was laid in 1915 when the Thirty-fourth Legislature enacted legislation regulating the practice of public accountancy. Under provisions of this legislation the State Board of Accountancy was directed to: 1) examine applicants for CPA certificates; 2) collect examination fees; 3) collect fees for annual renewal of permits issued by the Board; 4) revoke and recall the certificate of anyone convicted of a felony, declared by a court to have committed fraud or declared by any court to be insane or otherwise incompetent or held by the Board to be guilty of any act or default discreditable to the profession.

The qualifications, duties and responsibilities of board members, the qualifications of candidates sitting for the examination for a certificate as Certified Public Accountant, and the subjects of the examination (1. Auditing, 2. Law as it affects public accountancy, 3. Theory of Accounts, 4. Practice of Accountancy) are still visible in the present law although considerable modification has taken place through the years.

The Public Accountancy Act of 1945, passed by the forty-ninth Legislature, provided for the repeal of Chapter 122, Acts of the Thirty-fourth Legislature and made major changes in the regulation of public accountancy in Texas. The 1945 Act 1) required Senate approval of appointees to the Board, 2) gave the Board authority to promulgate rules of professional conduct, 3) authorized the Board to employ a staff, 4) provided a "grandfather clause" to provide for registration of specified individuals, 5) substantially increased the education and experience requirements of candidates for examination, and 6) expanded the Board's powers of

revocation or suspension of certificates or permits to practice public accounting in Texas. This Act provides the statutory basis for the present Texas State Board of Public Accountancy.

#### Administration

Statutory provision is made for a Texas State Board of Public Accountancy consisting of nine (9) members appointed by the Governor with the advice and consent of the Senate. Each Board member must be: 1) a citizen of the United States, 2) a resident of Texas, 3) engaged in the practice of public accounting and 4) must hold a permit (license) issued by the Board. Five of the Board members must be Certified Public Accountants (C.P.A.s ) and the remaining four members may be either Public Accountants (P.A.s) or Certified Public Accountants.

The Board of Public Accountancy is charged with the administration of the Act and is given authority to: 1) elect its officers, 2) adopt rules necessary for the orderly conduct of its affairs, and 3) promulgate rules of professional conduct appropriate to establish and maintain a high standard of integrity in the profession of public accountancy. Board members receive no compensation for their services, but they are reimbursed for their necessary expenses incurred in the discharge of their official duties.

Statutory provision is made for the Board to employ such clerks as are necessary to provide administrative support services to the Board in the performance of its duties. The staff of the Board in 1945 consisted of five employees; four employees in 1955, six employees in 1965 and 12 employees in 1975. The Board currently employs a supportive staff consisting of an Administrative Director and 13 clerical personnel.

The staff provides support services to the Board by: 1) processing applications for the CPA examination, 2) conducting the examination, 3) maintaining individual files after examination, 4) licensing all permit holders once each year, 5) processing complaints, and 6) providing clerical assistance during and following the Board's hearing of complaints.

### Responsibilities

Statutory provisions in the Public Accountancy Act of 1945, as amended, make the Board responsible for:

1. Conducting of examinations for the certificate of "Certified Public Accountant."
2. Issuance of annual new/renewal permits to practice as a Certified Public Accountant, as a Public Accountant, or as a partnership or corporation engaged in the practice of public accountancy.
3. Promulgation of rules of professional conduct appropriate to establish and maintain a high standard of integrity in the profession of public accountancy.
4. Suspension, revocation or refusal to renew a permit, or issuance of a reprimand, for violation of a rule of professional conduct or for other causes as specified by law.
5. Enforcement of specific statutory prohibitions against practicing public accountancy without a valid permit.

### Funding

Revenues collected by the Board are held outside the State Treasury. All expenses of the State Board of Public Accountancy are paid from fees authorized in the Act and expenditure levels are set by the Board. Specific provision is made that "No expenses incurred under this Act shall ever be charged against the funds of the State of Texas."

The Board has always been self-supporting in that revenues received have always been sufficient to cover expenses. Over the years, fund balances have not

been excessive. The Board is required to submit annual reports of receipts and disbursements to the Governor, and is audited periodically by the State Auditor's Office. The most recent audit covers the calendar years 1975 and 1976 and is due to be released in March-April 1978.

## COMPARATIVE ANALYSIS

To determine the pattern of regulation of the occupation of accountancy within the United States, a survey of the 50 states was conducted to determine how this has been addressed in other states.

The need to regulate the occupation of accountancy is currently expressed through licensing requirements imposed by 50 of the 50 states surveyed. From the standpoint of organizational patterns, 47 states, including Texas, meet this expressed need through an independent board or commission whose members are appointed by the chief executive. In 21 states, the function is carried out through a governmental department charged with the regulation of multiple occupations.

In those states which utilize independent boards and commissions, 10 require that appointees be confirmed by the Legislature; and membership in 36 states is limited to persons who are licensed members of the occupation. In Texas, appointees are confirmed by the Senate and membership is limited to persons who are licensed members of the occupation. Ninety-four percent of the states, as does Texas, utilize independent governing bodies limiting the responsibilities of the membership to that of policy-making as distinguished from the role of full-time administrators.

A majority of the states, including Texas, indicate that the revenue sources of the regulatory body, regardless of organizational form, were derived from fees collected. Only 2 of 50 states indicated that these bodies were not solely supported by fees and charges of the agency.

Fifty of the states, regulating the occupation of accountancy administer national examinations. Texas uses a national examination. The examination is

required only once in 50 of the states, including Texas. In 37 states, licensees are required to renew their licenses annually. Texas licenses for a one-year period. Enforcement activities in 48 states, including Texas, involve investigation of complaints from consumers and others engaged in the occupation of accountancy. Hearings are conducted inside the regulating agency in 42 states. In Texas, hearings are conducted by the Board.

States which regulate the occupation of accountancy indicated the necessity of performing the basic functions of administration, testing, license issuance, and enforcement. These basic functions also constitute the primary elements of the operations of accountancy and are examined in light of specific criteria required in the Texas Sunset Act in the material which follows.

## REVIEW OF OPERATIONS

### Criterion 1

The efficiency with which the agency or advisory committee operates.

The review under this criterion centered on financial data and other records of the agency. This information was analyzed to determine if funds available to the agency had been utilized in a reasonable manner to achieve the purposes for which the agency was created and to determine if areas existed in which greater efficiency of operations could be achieved.

#### Administration

Article 41a. Public Accountancy Act of 1945, V.A.C.S., provides the statutory authority for existence of the Texas State Board of Public Accountancy. Section 5 of the Act states that: "The Board shall administer the provisions of this Act." The Board's powers and duties are described, method of funding its activities specified, and specific provisions for regulating the practice of public accountancy in Texas are set out by the Act.

The Board's primary responsibilities are: 1) conducting the CPA examination and issuing CPA certificates to successful candidates, 2) issuing initial and renewal permits (licenses) to those eligible under the Act and Board rules, 3) enforcement of the prohibitions contained in the Act and, 4) enforcing the Rules of Professional Conduct promulgated by the Board.

In the administration of the provisions of the Act, the Board is assisted by a staff of 14 employees, one of which acts as executive director. The Board's personnel policies are in substantial agreement with the State's classification plan and employee provisions. The Board's policies provide for reimbursement of employees' actual expenses of food and lodging, plus 18 cents per mile for automobile expense. Contracting and purchasing procedures are independent of the

State Board of Control.

Members of the Board receive no compensation for their services but are reimbursed for necessary expenses incurred in the discharge of their official duties. Reimbursements made to the nine Board members for the three-year period (1975-1977 inclusive) were as follows:

	<u>Amounts</u>
1975 Reimbursements to Nine-Member Board	<u>\$19,065</u>
1976 Reimbursements to Nine-Member Board	18,152
1977 Reimbursements to Nine-Member Board	<u>20,694</u>
Three-year total	<u><u>\$57,911</u></u>

Out-of-state travel accounted for \$14,366 of the \$57,911 total. A substantial part of the \$14,366 was paid to the Chairman and the Secretary-Treasurer of the Board who represented the Texas State Board of Public Accountancy at national and regional meetings of the National Association of State Boards of Accountancy (NASBA).

The review of travel vouchers disclosed that Board members were reimbursed at double occupancy rates when accompanied by their spouses and in some instances reimbursed registration fees included special events tickets for spouses. In discussions with the Board Chairman assurances were given that immediate action would be taken to notify the staff and other Board members that such items were not to be claimed for reimbursement.

Exhibit I-1 shows Board members, terms of appointment, and individual attendance at Board Meetings for 1975, 1976, and 1977. Non-Certified Public Accountant members of the Board are indicated by asterisk. The Public Accountant (PA) members of the Board participate in all functions of the Board except the conducting of the CPA examinations and the issuance of CPA certificates.

## Funding

Section 7 of the Act provides that: "All expenses incurred under this Act shall be paid from the fees collected under this Act. No expenses incurred under this Act shall ever be a charge against the funds of the State of Texas." Fees which may be collected under the provisions of the Act are shown in Exhibit I-2. It will be noted that the Board collects two fees: 1) Transfer of Credits, \$50, and 2) Foreign Registration, \$25.00, which are not specifically named in the Act. Discussion with Board personnel revealed that these two fees are based upon the amount of work necessary to prepare and process the files for those receiving the respective services. Since "Foreign Registration" basically confers the same benefits as a Reciprocal certificate, there seems to be no basis for requiring differing charges.

## Revenues and Expenditures

Expenditures of the Board of Accountancy are shown in Exhibit I-3 for the calendar year 1977. Characteristic of state agencies whose funds are outside the State Treasury, the Board has not set up its accounting system to provide expenditure data by programs and activities. During the examination it was suggested that an effort be made to classify expenditures into the four functional cost centers of: 1) Administration, 2) Examination, 3) Licensing and 4) Enforcement. The results of this effort, based upon detailed analysis and allocation of direct and indirect costs show that the allocated costs of examinations are substantially in excess of the revenue generated by such examinations, and the allocated costs of licensing are substantially less than the revenue generated by permit fees. While the Board has discretion in setting examination fees and permit fees, and the present fee structure benefits the candidates seeking to take the

examination, there is an imbalance between the costs and revenues associated with these two activities.

Prior to January 1, 1978, Board members were eligible for retirement benefits under the Employees Retirement System. During 1977, payments were made to the Retirement System for Board members in the sum of \$17,289 as state matching funds. Discussion with Board personnel and personnel of the State Employees Retirement System indicated Senate Bill 756, Sixty-fifth Legislature, 1977 eliminated any future participation in the Retirement system by members of the Board of Public Accountancy.

Revenues and expenditures and other financial data are shown in Exhibit I-4 for ten years - 1968 through 1977. It is significant to note that the Board has experienced an operations deficit (excess of expenditures over revenues) in five of the most recent six years. This is made possible by the receipt and use of the annual license (permit) fees in December, thus providing advance funding and an adequate cash flow for continuous operations. However, continued operations on deficit financing will invariably create a cash flow problem for the Board.

Projections of Revenue and Expenditures are also shown on Exhibit I-4 for the years 1978 through 1983. The projections are linear based on a five-year history of the Board's revenues and expenditures. The projections show that the Board can continue to operate well within the maximum fee structure of \$75 for the CPA examination and \$20 for annual renewal of permits.

### Summary

The Texas State Board of Public Accountancy has operated within the limits of revenue producing fees provided by statute. The Board has moved to collect fees that are fair and equitable for services rendered to "transfer-of-credit" and "foreign registrants" which are comparable to the statutory charges collected from

Texas residents. Fees have been set at a level which does not generate large amounts of revenue over expenses and thereby accumulate excessive balances of cash. Such actions of the Board benefit candidates for the CPA examination and permit holders by a fee structure which is well below the national average.

The Board's payroll, leave and travel policies for employees are substantially in accord with the appropriate provisions of the current General Appropriations Act although the Board is not subject to the appropriation process.

EXHIBIT I-1

Board Members Attendance  
Fiscal Years 1975-1977  
Texas State Board of Public Accountancy

Current Board Members	Term of Office	Attendance at Meetings		
		1975 (7)	1976 (6)	1977 (6)
J. K. S. Arthur	August 3, 1974 to September 4, 1979	6	5	6
Alvin G. Davidson*	January 29, 1974 to September 4, 1979	6	4	3
W. Clyde Freeman, Jr.	December 11, 1975 to September 4, 1979	4	4	4
Don M. Lyda	October 22, 1975 to September 4, 1981	1	5	6
A. Burke Haymes	October 22, 1975 to September 4, 1981	1	6	4
Charlie S. Williams*	October 22, 1975 to September 4, 1981	1	5	5
Miller Montag	December 2, 1977 to September 4, 1983	New Member		
Oscar E. Reeder	December 2, 1977 to September 4, 1983	New Member		
Brooks Wilson	December 2, 1977 to September 4, 1983	New Member		
<hr/> <u>Past Members</u> <hr/>				
Walter K. Junker	February 2, 1970 to December 11, 1975	4		
Wever P. Leigh*	April 20, 1970 to December 11, 1975	6		
S. W. Noble*	April 20, 1970 to December 11, 1975	3		
Lloyd J. Weaver	December 3, 1971 to September 4, 1977	7	6	6

EXHIBIT I-1  
(cont.)

<u>Current Board Members</u>	<u>Term of Office</u>	<u>Attendance at Meetings</u>		
		<u>1975</u> <u>(7)</u>	<u>1976</u> <u>(6)</u>	<u>1977</u> <u>(6)</u>
<u>Past Members</u>				
Angus H. Cockrell	June 29, 1972 to September 4, 1977	7	6	6
Robert J. Hibbetts	December 3, 1971 to September 4, 1977	7	6	4

\*Denotes PA Members, all other members are CPAs.

EXHIBIT I-2

Texas State Board of Public Accountancy  
Schedule of Fees

<u>Type of Fee</u>	<u>Statutory Maximum</u>	<u>Actual 1978</u>
<b>CPA Examination Fees:</b>		
Initial Examination - All Subjects	\$75.00	\$50.00
Reexamination -		
Auditing	15.00	10.00
Business Law	15.00	10.00
Accounting Theory	15.00	10.00
Accounting Practice (two parts)	30.00	20.00
Transfer of Credits (for parts passed in other states)	-	50.00
<b>Permit Fees and Penalties:</b>		
Original and Renewal Permits	20.00	12.00
Penalties (for late renewal)	10.00	10.00
Reciprocity Fees	75.00	50.00
Foreign Registration (for registration of out-of-state accountants)	-	25.00
<b>Miscellaneous Fees:</b>		
Lettering of Duplicate of CPA certificate	-	7.50
Lettering of Display Statement - P.A.	-	5.00
Copies of Examination Papers -		
Auditing	-	8.00
Law	-	8.00
Accounting Theory	-	8.00
Accounting Practice (two parts)	-	16.00
Xerox Copies of Examination Questions and Suggested Solutions -		
Auditing	-	10.00
Law	-	10.00
Accounting Theory	-	10.00
Accounting Practice	-	20.00
Examination Grades by Problem - Per Subject	-	1.00

EXHIBIT I-3

Texas State Board of Public Accountancy  
Expenditures for Calendar Year 1977

<u>Expenditure Category</u>	<u>Amount</u>	<u>Percent of Total</u>
<u>Board Meetings Expense</u>	<u>\$ 13,385</u>	<u>1.97</u>
<u>Personnel Expenses</u>		
Salaries	137,848	20.31
Retirement Matching	28,038*	4.13
Social Security Matching	7,393	1.09
Employee Insurance Premiums	<u>2,505</u>	<u>.37</u>
Total - Personnel Expenses	<u>175,784</u>	<u>25.90</u>
Other Operating Expenses		
CPA Examination Expense	356,712	52.55
Office Rental	34,847	5.13
Professional Fees and Services	10,399	1.53
Postage	32,146	4.74
Office Supplies and Expense	7,671	1.13
Travel	1,322	.20
Printing	10,985	1.62
Telephone and Telegraph	6,883	1.02
Equipment Rental	5,543	.82
Lettering of CPA Certificates	4,530	.67
Machine Maintenance and Repairs	2,795	.41
Audit Fee (State Auditor)	1,500	.22
Hearings Expense	2,479	.37
Bond and Insurance Premiums	957	.14
Investigation and Expert Witness Expense	826	.12
Association Dues	1,525	.22
Freight	423	.06
Refunds - Examination Fees	140	.02
Miscellaneous	982	.14
Capital Outlay:		
Office Furniture and Equipment	<u>6,945</u>	<u>1.02</u>
Total - Other Operating Expenses	<u>489,610</u>	<u>72.13</u>
TOTAL EXPENDITURES - Calendar Year 1977	<u>\$ 678,779</u>	<u>100.00</u>

\*Includes following payments for Board members:

Retirement Matching (two members)	\$ 3,291
Matching for purchase of prior service of one member	<u>13,998</u>
Total - Matching for Board Members	<u>\$ 17,289</u>

EXHIBIT I-4

Texas State Board of Public Accountancy  
Revenues and Expenditures, 1968 through 1977

Calendar Year	Transfers To General Revenue	Revenues				Annual Expenditures	Excess (Deficit) Revenues Over Expenditures	Fund Balance	Balance Cash and Investments
		Exam Fees	Permit Fees	Other Revenue	Total Revenue				
1968	None	\$ 70,518	\$ 49,710	\$ 4,535	\$ 124,763	\$ 137,840	\$ (13,076)	\$ (13,794)	\$ 46,289
1969	"	97,096	82,400	6,611	186,107	179,455	6,652	(7,142)	51,032
1970	"	124,512	86,904	8,192	219,608	195,748	23,860	16,719	93,613
1971	"	154,214	114,710	9,215	278,139	235,355	42,784	59,503	123,985
1972	"	160,352	98,904	12,058	271,314	301,334	(30,020)	29,483	96,775
1973	"	184,640	106,008	13,815	304,463	321,822	(17,359)	12,124	84,832
1974	"	243,370	113,944	21,205	378,519	434,661	(56,142)	(44,018)	66,800
1975	"	299,190	172,095	27,605	498,890	512,396	(13,506)	(57,524)	92,617
1976	"	348,490	237,790	32,265	618,545	615,708	2,837	(54,687)	82,640
1977	"	409,040	218,843	36,797	664,680	678,778	(14,098)	(68,785)	93,496
<u>Projections</u>									
1978	"	442,352	263,291	42,478	748,121	738,226	9,895	(58,890)	N.A.
1979	"	491,434	279,582	47,898	818,914	749,167	69,747	10,857	N.A.
1980	"	540,516	295,873	53,318	889,707	876,435	13,272	24,129	N.A.
1981	"	598,598	312,164	58,738	960,500	883,967	76,533	100,662	N.A.
1982	"	638,680	328,454	64,158	1,031,292	1,018,542	12,750	113,412	N.A.
1983	"	687,762	344,745	69,578	1,102,085	1,015,949	86,136	199,548	N.A.

## Criterion 2

An identification of the objectives intended for the agency or advisory committee and the problem or need which the agency or advisory committee was intended to address, the extent to which the objectives have been achieved and any activities of the agency in addition to those granted by statute and the authority for these activities.

The review under this criterion centered on an identification of the agency's statutory objectives as they related to the perceived need and the extent to which agency methods used can reasonably be expected to achieve those objectives. Statutes were reviewed to determine if objectives described in the self-evaluation report presented an accurate reflection of statutory duties. Agency viewpoints were sought to provide additional clarification; and appropriate files were reviewed to collect and verify selected data presented under this criterion.

The Texas State Board of Public Accountancy has the responsibility to regulate the practice of public accountancy under the provisions of the Public Accountancy Act of 1945, as amended. The provisions of the Act provide the Board a legal basis for its objective of establishing and maintaining a high level of integrity in the public accountancy profession in Texas. The importance of achieving a high level of integrity in the public accountancy profession is more imperative than in some other professions because of the public accountant's third-party responsibilities. Many of the accountant's audit reports and financial statements are used and relied upon by members of the business community and the general public.

To achieve its objective, the Board under authority granted by the Act: 1) conducts the CPA examination and issues CPA certificates to successful

candidates, 2) issues annual permits to individuals, partnerships and corporations engaged in the practice of public accountancy, 3) promulgates rules of professional conduct, 4) suspends, revokes or refuses to renew permits, or issues reprimands, for violation of the rules of professional conduct or provisions of the Act, and 5) enforces the specific statutory prohibitions against practicing public accountancy without a valid permit issued by the Board.

### Examination

Section 15 of the Act states that: "The examination for the certificate of 'Certified Public Accountant' shall take place as often as the Board deems necessary, but not less frequently than once each year." For many years the Board has conducted the CPA examination twice each year in the months of May and November. The Board's plan of offering the examination twice each year provides additional opportunities for those candidates seeking to enter the profession.

In 1977, the May and November examinations were held in Lubbock, Fort Worth, San Antonio and Galveston, thereby making the examination more accessible to candidates and reducing their travel time and expenses.

Examinations are prepared and graded by the American Institute of Certified Public Accountants. All examinations test the candidates in four standardized subject areas of: 1) Auditing, 2) Commercial Law as Affecting Public Accountancy, 3) Theory of Accounts, and 4) Practice of Accounting. The examination is scheduled over a two and one-half day period and requires approximately 20 hours to complete. All Texas candidates must score at least 75 percent on each separate subject. Data concerning the numbers of candidates sitting for the examination and the numbers passing are shown in Exhibit II-1 herein.

EXHIBIT II-1

Texas State Board of Public Accountancy  
CPA Examination Data

	1973		1974		1975		1976		1977		Five Year Totals	
	May	November	May	November								
Total writing the examination	<u>2,898</u>	<u>3,057</u>	<u>3,389</u>	<u>3,604</u>	<u>3,917</u>	<u>3,829</u>	<u>4,369</u>	<u>4,414</u>	<u>4,823</u>	<u>4,889</u>	<u>19,396</u>	<u>19,793</u>
Percent	<u>100</u>	<u>100</u>										
Number of CPA certificates granted	237	243	236	279	259	246	259	237	257	260	1,248	1,265
Number of certificates withheld pending completion of experience requirements	<u>287</u>	<u>348</u>	<u>319</u>	<u>443</u>	<u>381</u>	<u>441</u>	<u>328</u>	<u>383</u>	<u>377</u>	<u>479</u>	<u>1,692</u>	<u>2,094</u>
Total successful candidates	<u>524</u>	<u>591</u>	<u>555</u>	<u>722</u>	<u>640</u>	<u>687</u>	<u>587</u>	<u>620</u>	<u>634</u>	<u>739</u>	<u>2,940</u>	<u>3,359</u>
Percent	<u>18</u>	<u>19</u>	<u>16</u>	<u>20</u>	<u>16</u>	<u>18</u>	<u>13</u>	<u>14</u>	<u>13</u>	<u>15</u>	<u>15</u>	<u>17</u>
Total unsuccessful candidates*	<u>2,374</u>	<u>2,466</u>	<u>2,834</u>	<u>2,882</u>	<u>3,277</u>	<u>3,142</u>	<u>3,782</u>	<u>3,794</u>	<u>4,189</u>	<u>4,150</u>	<u>16,456</u>	<u>16,434</u>
Percent	<u>82</u>	<u>81</u>	<u>84</u>	<u>80</u>	<u>84</u>	<u>82</u>	<u>87</u>	<u>86</u>	<u>87</u>	<u>85</u>	<u>85</u>	<u>83</u>

\*Includes candidates who received credit for passing one or more of the four (but not all) subjects.

The Texas State Board of Public Accountancy reserves the right to review/regrade the examination papers of all candidates. While the present Board has never exercised its authority to regrade examination papers, it has continued a practice of previous Boards in waiving the statutory requirement that a candidate score 50 points on a subject to qualify the candidate's sitting for the next succeeding examination. The waiver is automatically granted to candidates who score 48 or 49 points on any subject. Such waiver is of direct benefit to the candidate who desires to sit for the next succeeding examination. In a discussion with the Chairman of the Board we were told that a request would be made to the Attorney General's Office for clarification of the Boards authority to waive the 50 point requirement.

Education and experience requirements to sit for the CPA examination are shown in the following summary:

Education and Experience Combined

Degree Status	Specific Education			Experience
	Number of Hours	Minimum in Accounting	Related Subjects (A)	Years
1. Masters Degree in:				
Accounting	29	20	9	1 (B)
Business Administration	29	20	9	1 (B)
LLB or JD	29	20	9	1 (B)
2. Baccalaureate Degree	29	20	9	2 (B)
3. Sixty (60) semester hours in a recognized college or university	0	0	0	6 (C)

Candidates who qualify under items 1 and 2 above must take the entire examination. Candidates who qualify under item 3 above may take Auditing, Law,

and Theory. After acquiring six (6) years experience the remaining subject (Practice) may be taken.

- (A) All of the 29 hours may be in accounting or a combination of at least 20 hours accounting and related business subjects recognized by the Board. Business subjects recognized by the Board are:

Finance	Law	Business Writing
Economics	Marketing	Insurance
Management	Statistics	Office Machines
Real Estate Principles		

- (B) Qualifying experience must be:
1. as an employee of a CPA or Public Accountant
  2. in other work of a non-routine accounting nature continually requiring independent thought and judgment on important accounting matters
  3. or partly as in 1 and partly as in 2.
- (C) This six (6) years of qualifying experience must have been under the supervision of a Certified Public Accountant, not necessarily one in Public Practice.

#### Permits to Practice Public Accountancy

Annual permits to practice public accountancy in Texas are issued to new CPAs as they qualify by successful completion of the examination and meeting the necessary experience requirements. All Certified Public Accountants and Public Accountants who have previously been issued a permit must renew the permit each year whether or not engaged in public practice of accountancy. Currently the fees are:

	<u>Statutory Maximum</u>	<u>Actual</u>
Original and Renewal Permits	\$ 220.00	\$12.00
Penalty (for late renewals)	10.00	10.00

Exhibit II-2 shows the cumulative total of registrations by the Board and the permits issued each year for the five-year period 1973 through 1977. Fees for

EXHIBIT II-2

Texas State Board of Public Accountancy  
Board Registration - 1973 through 1977

Registrants	1973		1974		1975		1976		1977		Comparison - 1977 to 1973	
	Cumulative Registration	Permits Issued	Cumulative Registrations	Permits Issued	Permits Issued Increase	Percentage Increase Permits						
Certified Public Accountants	12,583	11,161	13,697	12,237	15,204	13,635	16,735	15,028	18,151	16,278	5,117	46
Public Accountants	4,335	1,396	4,335	1,343	4,335	1,257	4,335	1,147	4,335	1,088	- 308*	-22*
Partnerships	2,123	431	2,221	500	2,329	542	2,442	563	2,550	586	155	36
Corporations	107	96	142	127	192	165	250	202	309	239	143	49
Foreign (out-of state accountants)	<u>144</u>	<u>34</u>	<u>147</u>	<u>36</u>	<u>160</u>	<u>46</u>	<u>165</u>	<u>45</u>	<u>166</u>	<u>45</u>	<u>11</u>	<u>32</u>
TOTALS	<u>19,292</u>	<u>13,118</u>	<u>20,542</u>	<u>14,243</u>	<u>22,220</u>	<u>15,645</u>	<u>23,927</u>	<u>16,985</u>	<u>25,511</u>	<u>18,236</u>	<u>5,118</u>	<u>39</u>

\*Indicates a decrease in the number of Public Accountants who were licensed under the "Grandfather" Clause of the Public Accountancy Act of 1945. There have been no registrations of Public Accountants since the expiration date of the "Grandfather" Clause on November 1, 1947.

issuance of permits provide one of the two chief sources of revenue for payment of the Boards costs of operations, the other source being examination fees received from applicants. Details of revenue from these two sources are shown in Exhibit I-4 in Criterion 1.

### Enforcement

The Texas State Board of Public Accountancy is accorded enforcement authority under the Act which assists the Board in the achievement of its objective to establish and maintain a high level of integrity in the public accountancy profession in Texas. The Board's primary areas of enforcement concern and activity are: 1) rules of professional conduct, and 2) specific statutory prohibitions.

The Board promulgates rules of professional conduct which apply to both Certified Public Accountants and Public Accountants. Generally, the rules are intended to produce a unity of purpose and a clear concept of the obligations of all public accountants: 1) to the public, 2) to each other, and 3) to their profession. All rules promulgated by the Board must be submitted to all permit holders for review and voting before they may be put into effect. Approval by a majority of those voting is required and the Board must declare the results of the voting before a new rule, or amendments to existing rules, may become effective.

The Board is provided statutory authority to revoke, suspend, or refuse to renew a permit, or may reprimand the holder of a permit for one or more of the following causes:

1. Fraud or deceit in obtaining a certificate or permit.
2. Dishonesty, fraud or gross negligence in the practice of public accounting.
3. Violations of various sections of the Act.
4. Violation of a rule of professional conduct.
5. Conviction of a felony.
6. Conviction of any crime, an element of which is dishonesty or fraud.

7. Refusal by any other state to renew the authority to practice of a CPA or PA for any cause other than failure to pay an annual registration fee in such other state.
8. Suspension or revocation of right to practice before any federal or state agency, for a cause which in the opinion of the Board warrants its actions.
9. Failure to renew permit to practice upon passing of certain stated periods of time.
10. Conduct discreditable to the public accounting profession.

The Board must give written notice to the accused permit holder at least 20 days before a hearing on such serious matters as those listed above. The accused may appear in person, with or without counsel, produce evidence and witnesses, cross-examine witnesses, and examine the evidence produced against him. The accused is also entitled, on application to the Board, to the issuance of subpoenas to compel the appearance of witnesses on his behalf.

The Board has subpoena powers, must keep a stenographic record of all hearings, and must have a representative of the Attorney General's Office or other legal counsel represent the Board at all hearings. Rules or decisions of the Board, resulting from such hearings, may be appealed to the District Court of the county of residence by the party adversely affected by such rules or decisions of the Board.

The Public Accountancy Act of 1945, as amended, contains several specific statutory prohibitions which the Board is mandated to enforce. Approximately 70 percent of the complaints processed by the Board arise from violations of Section 8 of the Act which deals with the title or designation "certified public accountant" or the abbreviation "CPA", or variations of the use of both, which leads the public to the belief that a person, partnership or corporation is qualified to practice public accounting in Texas when, in fact, they are not qualified holders of permits issued by the Board. Details of the nature, volume and the Board's processing of such violations are to be found in the material presented in Criterion 6 herein.

## Summary

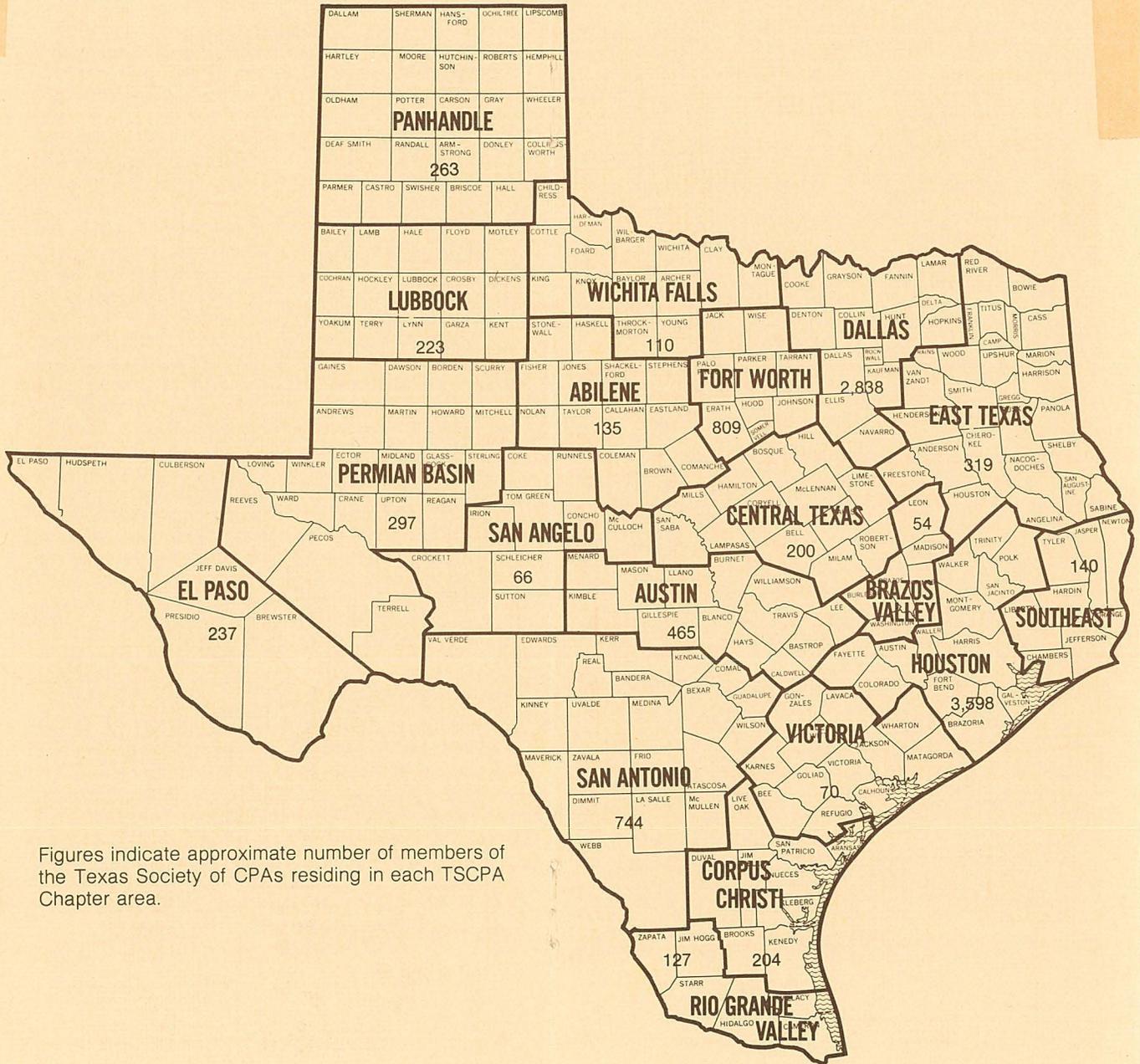
The review and examination of the Board's stated objectives indicate that they are in accord with the intent of the statutes and that the need for regulation of the practice of public accountancy in Texas is being met.

Review of agency records, reports and statistical data, together with interviews of Board members and agency staff, and review of data secured from independent outside sources, indicate that the Board is organized to discharge the duties and responsibilities which were placed under the Board's jurisdiction by the Public Accountancy Act of 1945, as amended.

Evidence of the degree to which the Board has been successful in achieving its objectives is reflected, to some extent, in Exhibits II-3, II-4, II-5 and II-6 which follow. Since the Exhibits are self-explanatory, they are shown without additional comment.

EXHIBIT II-3

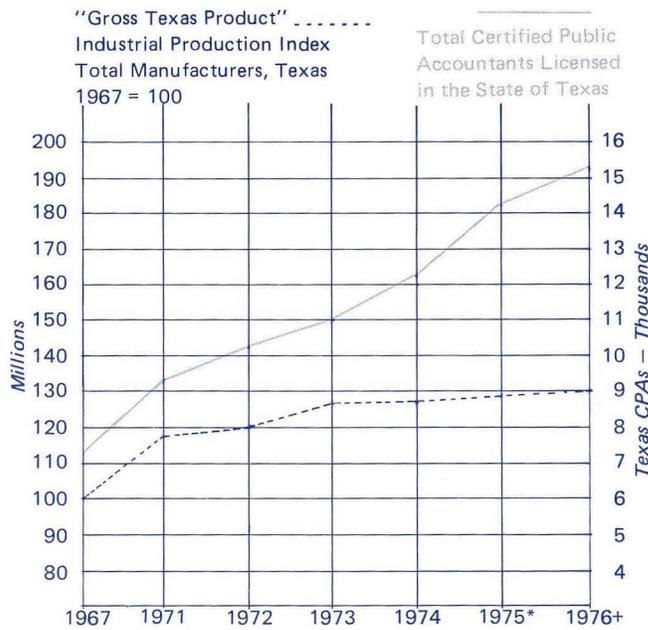
Distribution of CPA's - 1977



Figures indicate approximate number of members of the Texas Society of CPAs residing in each TSCPA Chapter area.

EXHIBIT II-4

Growth in Number of Texas CPAs Compared to Growth in "Gross Texas Product"



## EXHIBIT II-5

### Number Texas CPAs Compared to Population-State of Texas

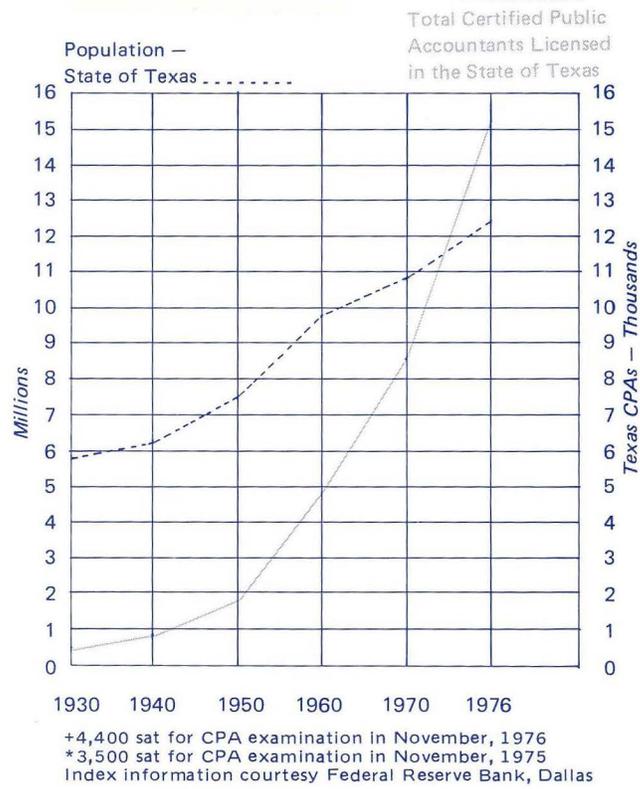
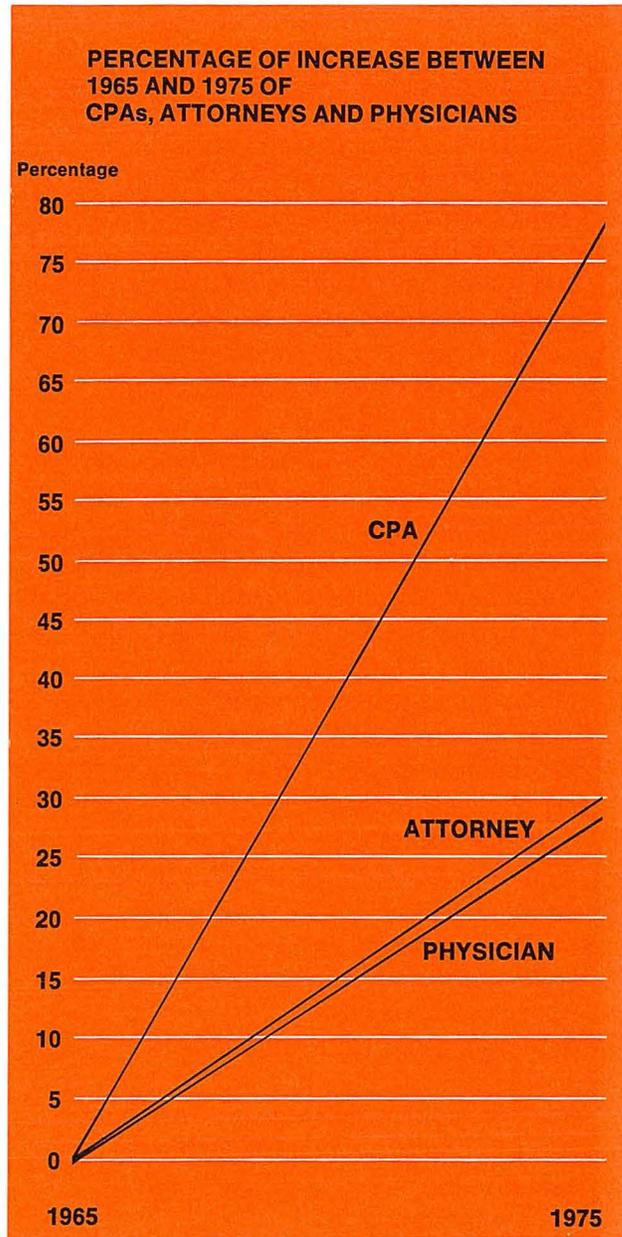


EXHIBIT II-6

Percentage of Increase - CPAs, Attorneys and Physicians



**SOURCE:** *Statistical Abstracts* 1976, American Bar Association and American Medical Association (Attorney and Physician); AICPA (CPA)

### Criterion 3

An assessment of less restrictive or other alternative methods of performing any regulation that the agency performs which could adequately protect the public.

The review under this criterion centered on analyses of the agency's regulatory functions in terms of 1) changes over time in the restrictive nature of agency functions, as seen in the agency's statutory history; 2) less restrictive methods which could be used; and 3) alternative methods of performing the agency's regulatory tasks. These analyses were obtained through the agency's self-evaluation report, literature concerning occupational licensing, and surveys of similar licensing functions in other states.

From its beginning in 1915, the Board of Accountancy has had a statutory mandate to: 1) conduct examinations for the CPA certificate, 2) issue CPA certificates and permits to practice public accounting, 3) collect fees for annual renewal of permits to practice, 4) revoke or recall certificates or permits after hearings, and 5) enforce the provisions of the statutes. In 1978, the Texas State Board of Public Accountancy is still engaged in the same basic functions performed by the 1915 Board.

However, the interim from 1915 to 1978 has seen substantial changes in the requirements for entry into and continuance in the profession of public accounting. It may be assumed that increased requirements in the areas of education, experience, examination and personal attributes of candidates for entry into a profession have a restrictive effect upon the number of such candidates. It can also be assumed that requirements for continuance in a profession such as: 1) standards of conduct, 2) enforcement sanctions, and 3) competency requirements such as periodic reexamination or mandatory continuing education programs, would

have a restrictive effect upon numbers who continue in a profession. A discussion of changes made in the Acts regulating public accountancy and the nature of such changes are addressed in the following material.

Entry Requirements for the Profession of Public Accounting

Personal Attributes

A comparison of personal attributes required of candidates for the CPA examination follows:

<u>Personal Attributes</u>	<u>1978</u>	<u>1915</u>
Age	18	21
Citizen of United States	Yes <sup>(1)</sup>	Yes
Resident of Texas	Yes <sup>(2)</sup>	No
Possessing good moral character	Yes	Yes
Meets education and experience requirements of the Act	Yes	Yes

(1) Non-citizen of U.S. must meet Texas residence requirements in Act.

(2) Must have a place of business in Texas or be regularly employed in Texas

Changes in requirements of personal attributes required of candidates for the CPA examination have made entry into the profession less restrictive with regard to age and citizenship and more restrictive as to residency and education and experience. The increased requirements of education and experience are discussed separately herein.

Education

The 1915 Act required one year's study and practice in accountancy or accounting work. The present Act requires: 1) a masters degree with one year of experience, 2) a baccalaureate degree with two years experience, or 3) 60 semester hours in a recognized college with six years of experience.

The transition from 1915 to 1978 was marked by several increases in educational requirements, each such increase associated, in some manner, with a change (increase) in experience requirements. Such increased educational requirements necessarily made entry into the profession of public accounting more restrictive by excluding those candidates lacking required qualifications.

#### Experience

The 1915 Act required one year's experience in practice and study of accountancy or accounting work. The present Act requires: 1) one year's experience with a masters degree, 2) two year's experience with a baccalaureate degree, and 3) six year's experience with 60 semester hours in a recognized college.

The transition from 1915 to 1978 was marked by increased requirements relating to experience, each such increase associated, in some manner, with a greater requirement in educational qualifications. Such changes tend to make entry into the profession of public accounting more restrictive by excluding those who have less qualifications.

#### Examination

The examination subjects for the CPA certificate in 1915 are compared with required subjects in 1978 as follows:

Subject	1978	1915
Auditing	Yes	Yes
Commercial Law as Affecting Accountancy	Yes	Yes
Theory of Accounts	Yes	Yes
Accounting Practice*	Yes	Yes

\*This was called Practical Accounting in the 1915 Act

While the content of the four subjects has necessarily changed to keep pace with the rapid growth of business enterprise, tax programs, and governmental require-

ments, the basic subjects of the examination have remained the same for 63 years and cannot be classified as more restrictive.

### Practice Requirements for the Profession of Public Accounting

Practice requirements for continuance in public accounting are somewhat less restrictive in nature than the entry requirements. Such "practice requirements" may usually be classified in one of the following categories: 1) Standards of Conduct, 2) Enforcement Sanctions, and 3) Competency Requirements. Practice requirements for the profession of public accounting in Texas are discussed in the order listed above.

#### Standards of Conduct

The 1915 Act did not give the Board of Accountancy authority to promulgate rules of conduct for those entering the profession. In the Public Accountancy Act of 1945 the Texas State Board of Public Accountancy was given the authority to "...promulgate, and may amend from time to time, rules of professional conduct appropriate to establish and maintain a high standard of integrity in the profession of public accountancy...".

Pursuant to the authority granted in the 1945 Act, as amended, the Board issued Rules of Professional Conduct consisting of 20 separate rules. Among the rules are the following prohibitions:

#### CPAs and PAs practicing in Texas

- a. cannot render services on a contingent fee basis;
- b. cannot advertise;
- c. cannot make a competitive bid for professional services;
- d. shall not violate the confidential relationship between himself and his client;

- e. shall not pay commissions, brokerage or share fees directly or indirectly with the laity;
- f. shall not engage in a business conjointly with that of public accounting which is incompatible or inconsistent therewith.

#### Enforcement Sanctions

Enforcement sanctions contained in the 1915 Act provided a fine (minimum \$100 - maximum \$1,000) and forfeiture of certificate by any CPA who was convicted of willful falsification of a statement or report made by him or under his direction.

Present law (the Public Accountancy Act of 1945, as amended) is more stringent than the 1915 Act in that it covers any person who violates any provision of the Act, assesses a fine of \$50 to \$500 and/or imprisonment in the county jail, and considers each violation a separate offense.

#### Competency Requirements

Competency requirements may be either statutory or by rules of the Board of Accountancy. Such requirements usually consist of: 1) Continuing Education Programs, 2) Examinations for Specialty Areas of Professional Practice, and 3) Periodic Reexamination in all or selected subjects of the qualifying examination.

The Texas State Board of Public Accountancy is not mandated by statute nor has the Board promulgated rules requiring any of the three competency subjects listed above. Texas does have a voluntary program of continuing education conducted by the Texas Society of Certified Public Accountants. In several instances of substandard work by permit holders, the Board has prescribed remedial continuing education for the offender.

Additional information showing the specific changes which occurred in the statutes regulating public accountancy in Texas is detailed in Exhibit III-1. An

important element of the Texas accountancy law is that it does not provide for jurisdiction over bookkeepers or tax preparers nor does it interfere with the right of the public to contract for such services. The law does prohibit bookkeepers and tax preparers, and others providing similar services, from holding themselves out to the public as "public accountants" by titles or designations that might be confused with CPA or PA. All other states have similar public accountancy laws which provide for the examination, licensure and regulation of CPAs.

The public accountancy laws in 15 states also provide for a continuing class of public accountants in addition to CPAs. The major characteristics of such laws are summarized as follows:

<u>Class or Designation</u>	<u>Number of States</u>
PA - Public Accountant	7
RPA - Registered Public Accountant	3
LPA - Licensed Public Accountant	1
AP - Accounting Practitioner	<u>4</u>
Total States	<u>15</u>

<u>Experience Required</u>	<u>Number of States</u>
4 years	1
3 years	3
2 years	4
1 year	2
0 years	<u>5</u>
Total States	<u>15</u>

<u>Education Requirements</u>	<u>Number of States</u>
Baccalaureate Degree	7
Two years of college	2
High School Diploma	5
None (Vermont Board evaluates each candidate)	<u>1</u>
Total States	<u>15</u>

<u>Examination Required</u>	<u>Number of States</u>
Uniform CPA Examination	1
Part of CPA Examination	9
Part of CPA Examination and Part of NSPA Examination	1
National Society of Public Accountants (NSPA) Examination	2
Examination Prepared by Board	1
None	<u>1</u>
Total States	<u>15</u>

Comparison of the experience, education and examination requirements for licensing the continuing class of public accountants in the 15 states reveals a high degree of similarity with the requirements for the CPA certificate in these same states and all other states. It is worthy of note that nine of the 15 states require as much or more education for this continuing class of accountant as Texas requires for the CPA examination.

Texas statutes do not provide for licensing a continuing class of public accountants. However, provision was made in the 1945 Act to extend licensing to existing Public Accountants under a "grandfather" clause and 4,147 PAs had been licensed by November 1, 1947 (the termination date of the grandfather clause). Texas is one of 35 states with this type of grandfathered class of accountants. On December 31, 1977, there were only 1,069 Public Accountants holding permits issued by the Texas State Board of Public Accountancy.

#### Regulation of Accountancy in Other States

Regulation of accountancy is carried out in the 50 states, Washington, D.C., Guam, Puerto Rico, and the Virgin Islands. All states and territories have boards of accountancy except two: Utah has a Committee for Public Accountancy which performs the same functions as boards in other states and Illinois has two committees; 1) Committee on Accountancy, within the University of Illinois, which

conducts the uniform CPA examination and issues CPA certificates, and 2) Committee on Public Accountancy, within the Illinois Department of Registration and Education, which holds hearings on complaints and promulgates rules of professional conduct. Staff of the Department of Registration and Education collects the annual license fees and prepares a register of licensees each biennium.

All states and territories use the uniform CPA examination which is prepared and graded by the American Institute of Certified Public Accountants. The examination is given simultaneously in all jurisdictions and is conducted by the state's board of public accountancy except in Illinois, where the examination is conducted by the University of Illinois through use of a Committee on Accountancy.

Forty-eight states, including Texas, require a variety of kinds and years of experience before the CPA certificate will be issued to those successful candidates who are entering the practice of public accounting. Thirty-seven of the states require a baccalaureate degree for the issuance of the CPA certificate. All except one of the remaining 17 states require varying combinations of education and experience of candidates for the examination. Generally, it was noted that the higher educational qualifications required less years of experience, as is the case of Texas. Vermont has no minimum educational requirements but the Board evaluates each candidate's qualifications on an individual basis.

Texas requirements for entry into the profession are less restrictive than those 37 states which require a baccalaureate degree and compare favorably with the 16 states which require less than the BA degree.

#### Performance of Candidates on the Uniform CPA Examination

Data obtained from the American Institute of Certified Public Accountants is summarized as follows:

CPA Examination - May 1975  
Percentage Passing

<u>Pass Rate by Subject</u>	<u>High</u>	<u>Low</u>	<u>Texas</u>	<u>All States</u>
Auditing	49%	8%	25%	27%
Business Law	60%	20%	37%	34%
Accounting Theory	63%	18%	31%	32%
Accounting Practice	61%	18%	29%	32%

It will be noted that Texas candidates are scoring below the "all states" average in three of the four subjects. Texas is one of the 17 states which does not have a baccalaureate degree as a minimum educational requirement for the CPA examination and certificate.

The National Association of State Boards of Public Accountancy and the American Institute of Certified Public Accountants have conducted a joint undertaking to provide data to those preparing, administering and grading the CPA examination, concerning the characteristics of the candidates who sit for the examination. The data gathered and reported are also intended to be useful to: 1) the regulatory boards and legislators in determining the appropriateness of education, experience and conditioning requirements, 2) the prospective candidates for evaluating their chances of success and 3) the educators and the profession-at-large in seeking to improve the quality of prospective entrants into the profession. A summary of the data for candidates sitting for the May 1975 and November 1975 CPA examinations states the principal findings of the study as follows:

1. Educational level continues to rise; over 98 percent of first-time candidates have at least a bachelor's degree, and 16 percent have advanced degrees.
2. The probability of passing the examination is substantially improved by more formal education, particularly at the graduate level.

3. Both the scholastic aptitude of incoming college students (evidenced by SAT scores) and the student's collegiate achievement (evidenced by grade point average) are strongly associated with examination success.
4. Average undergraduate hours in accounting have decreased slightly, but there is more academic emphasis on calculus and computer courses.
5. More candidates are taking CPA coaching courses, particularly proprietary and college classroom courses, and these courses improve the probability of examination success.
6. Work experience continues to have little relation to examination performance, and the percentage of first-time candidates with less than one year's experience is increasing.
7. Scores on the four examination segments are highly interrelated, and the probability of examination success for repeat candidates is improved greatly if the candidate previously earned conditional credit for two or three examination segments.

A comparison of the data in this report with that in the Bizzell report (which is discussed in the next paragraph) should provide the Board with significant insight into why Texas candidates are scoring below the national average on the CPA Examination.

The Texas State Board of Public Accountancy engaged Dr. Allen Bizzell of the University of Texas to study the characteristics and examination performance of those candidates sitting for the November 1976 examination and subsequent examinations. The first report titled "A Study of Candidates' Characteristics and Performance on the Uniform Certified Public Accountant Examination for Texas Candidates - November 1976 Exam" was received by the Board on December 30, 1977. The report, consisting of 56 pages, is indicative of the Board's interest in working with Texas colleges and universities to insure that Texas candidates receive a quality educational program in preparation for the CPA examination. No attempt is made at analysis of data contained in the report. This is the responsibility of the State Board which requested the report.

A comparison of examination fees and annual permit fees charged by the states and territories reveals the following:

	<u>Amount</u>	
	<u>Exam Fee</u>	<u>Annual Permit Fee</u>
Fifty-four jurisdictions (Average)	\$ 62	\$ 24
Highest (South Dakota)	120	150
Highest (Connecticut)		150
Lowest (District of Columbia)	10	
Lowest* (Pennsylvania)		3
<b>Texas:</b>		
Legal maximum	75	20
Current amount	50	12

\*Data not available from five states on this item.

Current fees charged by the Texas Board of Public Accountancy are substantially below the average charges of the 54 jurisdictions. To the extent that such fees act as a deterrent to entry into and continuance in the profession, Texas is, on the average, less restrictive.

The Texas State Board of Public Accountancy, with the assistance of the National Association of State Boards of Accountancy (NASBA), provides an opportunity for the unsuccessful CPA candidate to analyze his performance on the CPA examination through the CPA Examination Critique Program. The objective of the Critique program is to assist the unsuccessful candidate in understanding why he failed the examination by comparing his answers to the correct answers under the guidance of qualified instructors.

Forty-four states (including Texas) and Puerto Rico offer the Critique program. Data provided by the NASBA shows that 8,000 candidates enrolled in the

Critique Program during 1975 and 1976. Participants in this program are reportedly performing better than non-participants on the next examination. In Texas, 1,910 candidates attended the Critique programs covering the 1976 and 1977 CPA examinations.

This program, being voluntary, does not restrict entry into the profession. Since statistics of the participants show improved performance on the next succeeding examination, the effect can be considered to make entry into the profession less difficult for the candidate.

Twenty-five states and the District of Columbia require "Continuing Education" programs of certificate holders; 24 of the programs are statutory while two programs are by rules promulgated by boards of accountancy. Most of the states having mandatory continuing education programs require 30 or 40 classroom hours each year in such subjects as accounting, auditing, taxes, management services, economics, finance, law, statistics, computer science and related subjects. While Texas statutes and Board regulations do not require a continuing education program, there is a comprehensive, statewide program offered on a voluntary basis by the Texas Society of Certified Public Accountants. Subjects offered parallel those offered in the states which have mandatory continuing education programs. In 1978, TSCPA is offering 95 subjects relating to the practice of accounting which are intended to improve the knowledge and competency of public accountants. Data received from TSCPA shows the following participation:

Texas State Society of Certified Public Accountants  
Continuing Education Data

	Calendar Years		
	<u>1975</u>	<u>1976</u>	<u>1977</u>
Number of CPAs participating	6,169	6,195	6,763
Number of contact hours	332,243	334,726	394,477
Average contact hours per CPA	53.85	54.00	58.33

Since this is a voluntary program, it does not have the effect of restricting an individual's ability to practice accountancy in Texas.

Summary

The statutory history of the regulation of public accountancy in Texas reveals substantial increases in the requirements to entry. These increases in requirements have centered in two areas: 1) experience requirements and 2) educational requirements. Increases were also noted in requirements for continuance, once licensed, by the addition of: 1) Board promulgated Rules of Professional Conduct, and 2) strengthened enforcement sanctions.

Comparisons were made with 49 states, the District of Columbia, Guam, Puerto Rico and the Virgin Islands regarding entry requirements. The comparisons revealed that 37 jurisdictions are more restrictive than Texas in that they require a baccalaureate degree and experience as a minimum requirement for entry as compared to Texas' minimum requirement of 60 semester hours college credit and six years experience.

An effort was made to correlate Texas' candidates performance (less than the national average in passes) with the fact that Texas examination requirements are less than those of 37 states. However, data could not be obtained from which such a comparison and correlation could be made.

A comparison of examination fees and licensing or permit fees showed Texas substantially below the average charges for all jurisdictions. It is doubtful that such fees exert any measurable influence on entry into or continuance once licensed.

Practice requirements, in the form of Rules of Professional Conduct, were authorized by the Public Accountancy Act of 1945 and the Board promulgated such rules for guidance of all permit holders. Such rules, and all amendments thereto, must be submitted to all permit holders for a vote before they may become effective. Since this is a form of self-imposed discipline, it is doubtful if such rules have a detrimental effect on continuance in the profession.

Many consumers of professional services view with distrust rules which prohibit competitive bids and advertising, thinking that such rules make professional services more difficult and more costly to obtain. Data were not available for a determination of whether or not rules prohibiting competitive bids and advertising have an adverse effect on availability or cost of accounting services.

Texas does not require a continuing education program by statute or by Board rule. Since there are 24 states which require continuing education programs (approximately 40 classroom or contact hours per year), for permit holders, it is apparent that Texas is less restrictive in practice requirements than those states.

Enforcement sanctions have been strengthened over the years to include all persons who violate the provisions of the Act instead of being limited in application to CPAs. Penalties have also become more severe in that a jail sentence may now be assessed in conjunction with, or in addition to, the fines provided in the Act.

Only one state, Illinois, regulates public accountancy in a manner which is substantially different from the methods used in Texas and the remaining 48 states, District of Columbia, Guam, Puerto Rico, and the Virgin Islands. The University of

Illinois conducts the CPA examinations and issues CPA certificates to successful candidates by use of a University appointed Committee on Accountancy. The enforcement of the Illinois Public Accountancy Act is by use of a Committee on Public Accountancy which is appointed by the Director of the Illinois Department of Registration and Education. Collection of initial and renewal fees of licensees is a staff function of the Department of Registration and Education. The Department also prepares a roster, once each biennium, of all licensees.

EXHIBIT III-I

Texas State Board of Public Accountancy  
Laws Regulating Public Accountancy 1915 through 1977

Year	Examination and Licensing	Enforcement	Administration
1915	<p><u>Requirements</u>  <u>Examination:</u>                      - 21 years of age or older                      - of good moral character                      - Citizen of the United States                      - One year's study and practice in accountancy</p> <p><u>Licensing</u>                      - Anyone possessing the four characteristics required for examination above and who shall have been practicing on his own account as a public accountant, or on the behalf of another public accountant, as a senior public accountant for not less than three years, two years of which practice shall have been within the State of Texas immediately preceding said application.                      - By successfully completing all parts of the Examination administered by the Board.</p> <p><u>Examination Fees</u> (Maximums)                      - Initial examination \$25                      - Reexamination 10</p> <p><u>License Fees</u>                      - Annual license \$ 1.00                      - Penalty (late renewal) 2.50</p>	<p><u>Prohibitions</u>                      - Use of title "Certified Public Accountant" or initials "C.P.A." unless licensed by Board                      - Use of the initials "C.A."                      - Falsely holding himself out as being qualified under the Act.</p> <p><u>Fines</u>                      - Guilty of misdemeanor.                      - Not to exceed \$200.</p> <p><u>Violations by Licensee</u>                      - Willful falsification of statement or report made by him or under his direction constitutes a misdemeanor.</p> <p><u>Fine</u>                      - Not less than \$100 nor more than \$1,000.                      - Forfeiture of certificate.</p> <p><u>Revocation and Recall Powers</u>                      - Certificate holder convicted of felony.                      - Declared by court to be insane.                      - Declared by court to have committed fraud.                      - Guilty of act or default discreditable to the profession.</p>	<p><u>Board</u>                      - Elect officers (Chairman and Secretary-Treasurer)                      - Prescribe rules and regulations for its own proceedings.                      - Examine applicants for the certificate of Certified Public Accountant.                      - Pay expenses from fees received.                      - Keep records of its proceedings and make annual report to the Governor.</p>

Year	Examination and Licensing	Enforcement	Administration
1945	<p><u>Requirements</u></p> <p><u>Examination:</u></p> <ul style="list-style-type: none"> <li>- Citizen of the United States.</li> <li>- Resident of the State of Texas or has a place of business therein or is employed therein at time of application.</li> <li>- Over the age of 21 years.</li> <li>- Of good moral character.</li> <li>- Meets the education and experience requirements of the Act.</li> </ul> <p><u>Education and Experience:</u></p> <ul style="list-style-type: none"> <li>- Graduate of a junior college, senior college or university with 30 or more semester hours in study of accounting, business law, economics and finance, of which 20 hours must be in study of accounting with one year qualifying experience.</li> <li>- Who is a graduate of a junior college, senior college or university, but does not have the hours in the specified subjects above, but does have two years qualifying experience</li> <li>- Graduate of a four-year high school who has been in the practice of public accounting or employed by a public accountant for four years.</li> </ul> <p><u>Examination Fees:</u> (Maximums)</p> <ul style="list-style-type: none"> <li>- Initial examination \$25</li> <li>- Reexamination \$10</li> </ul> <p><u>Licensing: (Grandfather Clause)</u></p> <ul style="list-style-type: none"> <li>- Anyone possessing the first four characteristics listed under examination above and who registers with the Board on or before the 1st day of Nov. 1945 and :-</li> <li>- Who is engaged in or has been engaged in the practice of public accounting for three years during last 10 years immediately preceding date of enactment of act.</li> </ul>	<p><u>Prohibitions</u></p> <ul style="list-style-type: none"> <li>- No one can practice public accountancy without a permit issued by the Board.</li> <li>- No person may use title "Certified Public Accountant" or the abbreviation "CPA" unless he is holder of a permit issued by the Board.</li> <li>- No person may use title of "Public Accountant" unless he holds a permit issued by the Board.</li> <li>- The use of designations "Chartered Accountant", "Certified Accountant", "Enrolled Accountant," "Registered Accountant," "Bonded Accountant," "Licensed Accountant" or the abbreviations "C.A.," "E.A.," "R.A.," "B.A.," or "L.A.," are prohibited.</li> </ul> <p><u>Revocation or Suspension</u></p> <ul style="list-style-type: none"> <li>- Board may revoke or suspend certificate or permit of licensee who is charged and found guilty of: <ul style="list-style-type: none"> <li>- Fraud or deceit in obtaining certificate.</li> <li>- Gross negligence or misconduct in the practice of public accountancy.</li> <li>- Violation of any of the provisions of this Act or of any rules or regulations promulgated by the Board.</li> </ul> </li> </ul> <p><u>Procedure and Review:</u></p> <ul style="list-style-type: none"> <li>- Charges against licensee may be filed by any reliable citizen of this State.</li> <li>- Affidavit setting out specific charges must be filed with the Board.</li> </ul> <p>Actions by Board must be brought in District Court of county where defendant resided at time the alleged acts occurred.</p> <ul style="list-style-type: none"> <li>- Appeal is available to both plaintiff and defendant.</li> </ul>	<p><u>Board</u></p> <ul style="list-style-type: none"> <li>- Five members appointed by Governor subject to consent of Senate.</li> <li>- Must be CPAs in public practice.</li> <li>- Administer provisions of the Act.</li> <li>- Promulgate rules of professional conduct appropriate to establish and maintain a high standard of integrity in the profession of public accountancy.</li> <li>- Conduct examinations.</li> <li>- Issue certificates and permits.</li> <li>- Enforce provisions of Act and Rules of Professional Conduct.</li> <li>- May employ necessary staff.</li> <li>- Pay all expenses from fees</li> <li>- Keep records and make annual reports to the Governor on a calendar year basis.</li> </ul>

Year	Examination and Licensing	Enforcement	Administration
	<p>Licensing: (cont.)</p> <ul style="list-style-type: none"><li>- Anyone who at the date of enactment of the Act:</li><li>- Was an employee of a public accountant or employed by any governmental agency and was:</li><li>- A graduate of any junior college, senior college or university with 30 semester hours in accounting, law, economics and finance of which at least 20 hours must be in accounting and has two years of qualifying experience.</li><li>- A graduate of a junior college, senior college or university without semester hours in the required subjects and has three years qualifying experience.</li><li>- A graduate of a four-year high school with four years qualifying experience.</li><li>- Anyone who was serving in the armed forces of the United States who was qualified upon entering the service may register within 12 months after honorable discharge.</li></ul> <p>Licensing (after examination):</p> <ul style="list-style-type: none"><li>- Meets requirements to sit for the CPA examination</li><li>- Meets education and experience requirements.</li><li>- Passes the CPA examination</li></ul> <p>Licensing (Permit) fees:                      (Maximums)</p> <ul style="list-style-type: none"><li>- New and renewals                              \$5.00</li><li>- Penalty (late renewal)                        \$2.50</li></ul>	<p>Penalties:</p> <ul style="list-style-type: none"><li>- Upon conviction of misdemeanor the fine may not exceed \$500, or by imprisonment in jail for not more than six months, or both such fine and imprisonment.</li></ul>	
1947	<p><u>Licensing (Grandfather Clause):</u></p> <ul style="list-style-type: none"><li>- Changed the date for registration as a public accountant from on or before Nov. 1, 1945 to on or before Nov. 1, 1947.</li></ul>	None	None

Year	Examination and Licensing	Enforcement	Administration
1951	<u>Examination</u> - Candidates may receive credit if passes one subject (previously required to pass two or more subjects to receive credit for any). - After examination, the applicant may write and demand copy of the examination questions, the candidate's answers showing his grades, and a copy of the AICPA solutions to the questions. - Reexamination fees: (Maximums) applicant has credit for zero subjects      \$15.00 applicant has credit for two subjects      10.00 applicant has credit for three subjects      7.50		<u>Board</u> - Membership changed from five to nine (5 CPAs and 4 PAs).
1959	None	None	<u>Board</u> - Term of office for members changed from two years to six years.
1961	<u>Licensing</u> <u>Permit Fees:</u> (Maximums) - New and renewals      \$10.00 - Penalty (for late renewal)      5.00 - Reciprocity permit      50.00  <u>Examination Fees:</u> - Initial examination      \$50.00 - Reexamination: Practice      20.00 Auditing      10.00 Law      10.00 Theory      10.00  <u>Examination</u> - Citizen of United States or has declared his intention of becoming such citizen. - Resident of Texas or has place of business therein or is regularly employed therein.	<u>Prohibitions</u> - Repealed Section 20 of 1945 Act which prohibited use of certain titles and abbreviations (see page 1 of this schedule for list under 1945 data section).  <u>Revocation or Suspension</u> - Board given authority to suspend permit for five years, refuse to renew license, revoke permit or reprimand the person who was charged. - Board given power to subpoena witnesses, the production of documents, administer oaths, take testimony, hear proofs and receive exhibits in evidence in connection with or upon hearing under the Act.	<u>Board</u> - Board members not eligible for reappointment until two-year lapse since end of previous term.

Year	Examination and Licensing	Enforcement	Administration
	<ul style="list-style-type: none"> <li>- Must have attained age of 21 years</li> <li>- Is of good moral character.</li> <li>- Who meets the education and experience requirements of the Act.</li> </ul> <p><u>Education and Experience</u></p> <ul style="list-style-type: none"> <li>- Major changes made in education and experience requirements</li> </ul>		
1971	<p><u>Requirements</u></p> <p>Examination:</p> <ul style="list-style-type: none"> <li>- deleted citizenship requirement.</li> </ul> <p>Examination Fees: (Maximums)</p> <ul style="list-style-type: none"> <li>- Initial examination \$75.00</li> <li>- Reexamination <ul style="list-style-type: none"> <li>Practice 30.00</li> <li>Auditing 15.00</li> <li>Law 15.00</li> <li>Theory 15.00</li> </ul> </li> </ul> <p>Permit Fees:</p> <ul style="list-style-type: none"> <li>- New and renewal \$20.00</li> <li>- Penalty (for late renewal) 10.00</li> <li>- Reciprocity Certificate 75.00</li> </ul>	None	<p><u>Board</u></p> <ul style="list-style-type: none"> <li>- Change in Board membership from five CPAs and our PAs to five CPAs and/or four PAs or CPAs (Present board consists of seven CPAs and two PAs, March 1978).</li> </ul>

#### Criterion 4

The extent to which the jurisdiction of the agency and the programs administered by the agency overlap or duplicate those of other agencies and the extent to which the programs administered by the agency can be consolidated with the programs of other state agencies.

The review of this criterion was directed at evaluating the agency's definition of its target population. The existence of other similar populations was explored and the extent of any overlap and duplication of services offered was analyzed. When applicable, the review also dealt with any efforts to establish coordinative relationships between agencies serving similar target groups and to minimize any duplication of services. This information was collected through discussions with agency personnel, review of statutes and rules, and the identification of other agencies with the potential ability to offer these same services.

#### Regulatory Jurisdiction

The Texas State Board of Public Accountancy was created by the Public Accountancy Act of 1945, Article 41a., V.A.C.S. Section 5 of the Act gave the Board a broad mandate: "The Board shall administer the provisions of this Act." Provisions of the Act require the Board to regulate the profession of public accountancy in the State of Texas. Therefore, the specific target population of this agency includes all candidates for the CPA examination and all who become permit holders (licensees) of the Board.

#### Overlapping Functions

The Board does not perform any regulatory functions that directly relate to or overlap the regulatory functions of any other state agency. The population regulated by the State Board of Public Accountancy is not subject to any direct or indirect regulation by any other state agency.

The basic processes used in conducting examinations and licensing are similar to and appear to be somewhat duplicative of those used by all licensing agencies. However, there is a demonstrated need for technical knowledge and expertise in the review and evaluation of the statutory requirements for personal attributes, experience and educational requirements of candidates which are highly characteristic of each separate agency.

Exhibit IV-1 shows the regulatory functions of the Board of Accountancy compared with five other agencies and indicates performance of similar functions.

#### Consolidation Potential

The review of the Board's duties and responsibilities did not reveal overlapping functions which were directly or indirectly related to those performed by another state agency. The population regulated by the Board is not directly or indirectly related to or associated with any other regulated population nor is it subject to any regulation by another state agency.

Thus consolidation of the Board of Public Accountancy with any other agency because of overlapping functions or populations does not seem appropriate.

#### Required Professional Expertise

Professional expertise is generally thought to be necessary for the effective performance of the duties and responsibilities of all regulatory agencies. This expertise is usually provided in the statutory requirements that all members of the regulatory board or commission be practicing members of the profession or occupation under regulation.

Review of the duties and responsibilities of the Texas State Board of Public Accountancy indicate that there are areas where professional expertise seems to be necessary. The areas are: 1) the promulgation and amending of rules of

professional conduct, 2) the evaluation of candidates' experience and education qualifications in discretionary cases, 3) decisions concerning the filing of charges against offenders and resolution of the case through the courts where necessary, 4) hearings on violations of statutory provisions of the Act and the Board's Rules of Professional Conduct, and 5) in actions to revoke or suspend a certificate, refusals to renew a permit, and reprimands.

While the processes of examination and licensing of candidates are characteristic of all regulatory agencies, there is an area where technical expertise must be acquired and implemented. In the case of the Board of Accountancy, the staff must be relied upon to acquire considerable knowledge of the Public Accountancy Act provisions relating to educational and experience qualifications of candidates. Interviews with the Executive Director indicated that it takes one and one-half to two years of intensive training of the staff to produce a skill level which is productive and efficient in the processing of candidate applications for the CPA examination.

### Summary

In summary, the Board of Accountancy regulates a group of persons who are not regulated by any other agency. Both professional and technical expertise appear to be required in the performance of selected functions of the Board and staff. There are no agencies with overlapping programs or populations, therefore, there seems to be little potential for consolidating the Texas State Board of Public Accountancy with another existing regulatory agency.

Comparative Regulatory Functions

Barber Examiners	Cosmetologists	Motor Vehicle Commission	Nursing Home Administrators	Public Accountancy	Structural Pest Control Board	
X	X	X	X		X	establish qualification standards independently
			X			qualification standards suggested by national organization
X	X		X		X	develop written examinations
			X	X		utilize national exams
X	X		X	X	X	process exam applications
X	X		X	X	X	evaluate qualifications for examination
X	X		X			prepare and send candidate ID cards
X	X		X	X	X	collect and process exam fees
						administer exams annually
				X		administer exams semi-annually
X	X		X		X	administer exams on multiple occasions
X	X		X		X	administer multiple exams
			X	X		national exam grading procedure
X	X		X		X	agency exam grading procedure
X	X		X	X	X	record and report grades
X	X		X	X	X	prepare and distribute certificates of registration
X	X	X	X	X	X	process annual license renewal
X	X	X	X	X	X	collect renewal fees
		X		X	X	mail notification of delinquency
X	X		X	X		reciprocal registration processed independently
						reciprocal registration processed thru national org.
X	X		X	X		collect reciprocal registration fees
X	X	X	X	X	X	receive and investigate complaints
X	X				X	field investigation capability
X	X	X	X	X	X	issue warnings
X	X	X	X	X	X	consult legal counsel reference violations
X	X	X		X	X	invoke injunctive powers
X	X	X	X	X	X	arrange agendas for Board meetings
X	X		X	X	X	administer Board meetings
			X	X		prepare roster
			X	X		distribute roster
	X		X	X		coordinate activities with educational institutions

### Criterion 5

Whether the agency has recommended to the legislature statutory changes calculated to be of benefit to the public rather than to an occupation, business, or institution the agency regulates.

The review under this criterion centered on statutory changes which affect the operations of the agency. In the period covering the last three legislative sessions, the review focused on both proposed and adopted changes in the law; prior to that period, the staff review was limited to only adopted changes. In analyzing these changes, the approach was taken that a statutory modification must be of clear benefit to the state's citizens to be considered to be in the interest of the public.

#### Board Position on Legislation

The Texas State Board of Public Accountancy does not propose or take a position on legislation. The Board applied this policy in the Sixty-third, Sixty-fourth and Sixty-fifth Legislatures. It is not considering legislation to be submitted to the Sixty-sixth Legislature.

The Texas Society of Certified Public Accountants and the Texas Association of Public Accountants (composed of grandfathered Public Accountants and non-licensed persons) have taken positions on most legislation introduced in recent years. Most proposals for statutory changes in recent years were made by the Texas Association of Public Accountants.

The Board has not sought public input on legislation because it is not the Board's policy to propose legislation. (See Exhibit V-1)

Analysis of Legislation in the Sixty-third, Sixty-fourth and Sixty-fifth

Legislatures:

Sixty-fifth Legislature - 1977

House Bill 755, rejected by the Legislature, would have required the licensing of tax preparers. The Texas State Board of Public Accountancy would have prescribed the method and content of examinations and would have conducted tests for tax preparer license applicants. The examination fee would have been \$25. Certified Public Accountants, Public Accountants, attorneys and persons authorized to practice before the Internal Revenue Service along with their employees would have been exempted from the tax preparer licensing requirement.

House Bill 1942, rejected by the Legislature, would have created a six-member Public Accountants Regulatory Board, appointed by the Governor and confirmed by the Senate. The Board would have included two Public Accountants, two professors of accounting at institutions of higher education who are not Certified Public Accountants under the Public Accountancy Act of 1945, and two public members. The proposed new Board would have licensed Public Accountants. The examination fee would have been \$25. An executive director and necessary staff would have been employed. After August 31, 1978, a person could not have practiced or represented himself as a Public Accountant unless he had been licensed under the legislation. The Texas Association of Public Accountants (TAPA) supported H.B. 1942. The Texas Society of Certified Public Accountants (TSCPA) opposed H.B. 1942.

A "grandfather" clause in the Public Accountancy Act of 1945, the present law as amended, allowed persons practicing at the time of adoption to continue practicing as Public Accountants without passing an examination. The deadline for this group to apply to the Board for registration was November 1, 1947. For

persons in military service June 6, 1945, the deadline to apply to the Board for registration was 12 months after the date of discharge. Since the 1945 law was enacted, CPAs increased from 1,203 to 16,232 and Public Accountants decreased from 4,147 to 1,069 as of December 30, 1977.

Senate Bill 81, passed by the Legislature, exempted from the definition of "proprietary school" this category among others: a school which offers intensive review courses designed to prepare students for certified public accountancy tests, public accountancy tests, law school aptitude tests, bar examinations or medical college admission tests. The Texas Society of Certified Public Accountants and TAPA apparently took no position on S. B. 81.

#### Sixty-fourth Legislature - 1975

No bills directly affecting the Texas State Board of Public Accountancy were disclosed in a review of legislative records.

#### Sixty-third Legislature - 1973

Senate Bill 727, rejected by the Legislature, would have authorized the State Board of Public Accountancy to license Public Accountants by amending the 1945 Act and expanding the Board's authority. Senate Bill 727 specified requirements for issuance of Public Accountant licenses and licensing procedures and would have assigned duties for examination and issuance of licenses as Public Accountants to non-Certified Public Accountant members of the Board. Seven CPAs and two PAs are members of the present Board. Applicants for licenses as public accountants would have been required to meet certain job-related standards and to be U.S. citizens and Texas residents. TAPA supported S.B. 727 while the Texas Society of Certified Public Accountants (TSCPA) opposed S. B. 727.

House Bill 1426, rejected by the Legislature, also would have established licensing for Public Accountants by the State Board of Public Accountancy.

Similar to S.B. 727, H.B. 1426 would have set a \$75 fee for the examination and \$30 and \$15 fees for reexaminations of candidates seeking licensing as Public Accountants. House Bill 1426 also specified qualifications for Public Accountant license applicants. TAPA supported H.B. 1426. The Texas Society of Certified Public Accountants (TSCPA) opposed H.B. 1426.

House Bill 577, rejected by the Legislature, would have required every regulatory agency under the direction or control of an appointive board of three members to have at least one public member and, if there were more than three members, at least two public members. TAPA and TSCPA apparently took no position on H.B. 577.

#### Summary

The Texas State Board of Public Accountancy has neither recommended in recent years legislation intended to benefit the public nor has it recommended legislation intended to benefit the profession of public accountancy. It is not the Board's policy to propose legislation, and no public input on statutory changes has been sought for this reason. The Board did not propose or take a stand on legislation affecting public accountancy in the Sixty-third, Sixty-fourth and Sixty-fifth Legislatures. It has no legislation under consideration for the Sixty-sixth Legislature in 1979.

In recent sessions, legislation has centered on efforts to establish licensing of Public Accountants by the Texas State Board of Public Accountancy or to create a new Public Accountants Regulatory Board to license Public Accountants. These efforts have been supported by the Texas Association of Public Accountants (TAPA). Three bills on this subject were rejected by the Legislature--S.B. 727 and H.B. 1426 by the Sixty-third Legislature and H.B. 1942 by the Sixty-fifth Legislature.

EXHIBIT V-1

Recommended Statutory Changes 63rd, 64th and 65th Legislatures

<u>Legislation</u>	<u>Nature of Proposed Change</u>
S.B. 727, 63rd Leg., 1973, <u>failed</u>	Would have required State Board of Public Accountancy to conduct examinations and issue licenses as public accountants to applicants who meet certain job-related standards and who are U.S. citizens and Texas residents; would have assigned public accountant examination and licensing duties to non-Certified Public Accountant board members. (Texas Association of Public Accountants (TAPA) supported.) (Texas Society of Certified Public Accountants opposed.)
H.B. 1426, 63rd Leg., 1973, <u>failed</u>	Similar to S.B. 727; would have established licensing of public accountants; set \$75 examination fee and \$30 and \$15 reexamination fees; established qualifications for licensing, examinations, reexaminations. (TAPA supported) (Texas Society of Certified Public Accountants opposed.)
H.B. 577, 63rd Leg., 1973, <u>failed</u>	Would have required all regulatory agencies under direction or control of an appointive board of three members to have at least one public member and, for boards with more than three members, at least two public members.
64th Leg., 1975	No applicable legislation.
H.B. 755, 65th Leg., 1977, <u>failed</u>	Would have required licensing of tax preparers by the State Board of Public Accountancy; \$25 examination fee; board would have prescribed the method and form of tax preparer examination; Certified Public Accountants, Public Accountants, attorneys and persons authorized to practice before the Internal Revenue Service and their employees exempted.

EXHIBIT V-1  
(cont.)

Recommended Statutory Changes 63rd, 64th and 65th Legislatures

<u>Legislation</u>	<u>Nature of Proposed Change</u>
H.B. 1942, 65th Leg., 1977, <u>failed</u>	Would have created a Public Accountants Regulatory Board to examine and license public accountants-- two Public Accountants, two non-CPAs who are professors of accounting at an institution of higher education and two public members; \$25 examination fee; executive director, other staff. (TAPA supported.) (Texas Society of Certified Public Accountants opposed.)
S.B. 81, 65th Leg., 1977 <u>passed</u> Effective Sept. 29, 1977	Exempted from the definition of proprietary school this category among others: a school which offers intensive review courses designed to prepare students for certified public accountancy tests, public accountancy tests, law school aptitude tests, bar examinations or medical college admission tests.

NOTE: The Texas State Board of Public Accountancy did not propose or support any of the legislation shown on this exhibit.

## Criterion 6

The promptness and effectiveness with which the agency disposes of complaints concerning persons affected by the agency.

The review under this criterion centered on: 1) an identification of the type and frequency of complaints received by the agency, 2) the adequacy of administrative procedures used to process these complaints, and 3) the appropriateness and patterns of actions taken to address the complaints. Information for the review was obtained through interviewing agency staff, examining complaint files, and analyzing data presented in the agency's self-evaluation report.

The Texas State Board of Public Accountancy has the responsibility to enforce specific statutory prohibitions against the practice of public accountancy without a valid permit issued by the Board. Approximately 70 percent of complaints processed during 1975, 1976 and 1977 arose from violations of Section 8 of the Act which reads, in part, as follows:

No person shall assume or use the title or designation "certified public accountant," or the abbreviation "C.P.A." or any other title, designation words, letters, abbreviation, sign, card, or device tending to indicate that such person is a certified public accountant, unless such person has received a certificate as a certified public accountant under Section 12 or Section 13 of this or prior Acts, holds a permit issued under Section 9 of this Act which is not revoked or suspended (hereinafter referred to as a "live permit"), and all of such person's offices in this state for the practice of public accounting are maintained and registered as required under Section 10 of this Act; . . .

The Board also has statutory responsibility for enforcing the provisions of the Act concerning complaints against permit holders (licensees) for violations of Section 22(a) of the Act and violations of the Rules of Professional conduct issued by the Board. The Board may revoke, suspend, or refuse to renew the permit or it may reprimand the permit holder against whom a complaint is filed and sustained.

If necessary for the disposition of a complaint, the Board may initiate proceedings for formal hearings; may seek injunctions enjoining offenders from engaging in the illegal practice of public accountancy; and has subpoena powers to compel the attendance of witnesses and the production of documents; may administer oaths, take testimony, hear proofs and receive exhibits in evidence in connection with or upon hearing under the Act.

Type and Frequency of Complaints

Complaints received and processed by the Board are shown by type and frequency in the following summary:

<u>Type of Complaint</u>	<u>Number</u>	
	<u>Received</u>	<u>Closed</u>
Board vs. Licensee	16	18
Board vs. Unlicensed Person	339	310
Licensee or Other Person vs. Licensee	141	139
Licensee or Other Person vs. Board	<u>2</u>	<u>2</u>
Totals, Three-year Period 1975 through 1977	<u>498</u>	<u>469</u>

Procedures Used in Processing Complaints

The Board of Accountancy procedures for processing complaints consist of three methods which are: 1) the Board Chairman writes a "cease and desist" letter to the person complained against, 2) the Board takes action to suspend, revoke, refuse to renew the permit or reprimand licensees after hearings or, 3) the Board seeks an injunction to prohibit unlicensed persons from engaging in the practice of public accountancy in the State of Texas. The Board may initiate proceedings under the Public Accountancy Act either on its own motion or upon receipt of a written complaint from any person. The methods used in processing complaints are flow charted in Exhibit VI-1.

The Board has delegated responsibility to the Board chairman to review and act on complaints described as "obvious violations". The Board Chairman, assisted by the agency staff, is successful in disposing of approximately 90 percent of complaints which fall in the "obvious violations" category. Summaries of all complaints closed by the Board Chairman are provided by letter to the other members of the Board for their information.

Exhibit VI-2 presents an analysis of 48 selected complaints which were processed by the Board Chairman under the authority delegated to him by the Board. The Exhibit shows that 43 of the 48 complaints were closed by use of the "cease and desist" letter and attests to the effectiveness of using this procedure in certain types of complaints.

The second procedure used by the Board in processing complaints is the conduct of hearings to consider revocation, suspension, or refusal to renew permits or reprimanding of licensees who are the subject of complaints. Exhibit VI-3 shows data concerning 19 disciplinary cases in which the Board employed the hearings procedure.

Disciplinary cases heard by the Board in 1975, 1976, 1977 involved 18 CPA's and one P.A. The Board ruled one licensee not guilty, revoked five permits, ordered two indefinite suspensions and eight suspensions ranging from 30 days to three years, and reprimanded six permit holders. Both suspensions and reprimands were ordered by the Board in two cases.

The average time from receipt of a complaint to hearing by the Board was 228 days (approximately seven and one-half months), with the shortest time interval being 51 days and the longest being 656 days. Field investigations to verify the alleged violations are necessary in most disciplinary cases. Such investigations, together with postponements, and other delays add to the time before a hearing can

be held by the Board. Review of the cases did not reveal any lack of diligence on the part of the Board in moving the complaints to the hearing stage.

The third procedure used by the Board in processing complaints is to seek an injunction against alleged violators. Eight cases, filed by the Board, were pending in the Attorney General's Office on March 10, 1978. All of the cases were for alleged violations of Section 8 of the Act . . . the prohibition against use of the title or designation "certified public accountant" or the abbreviation "CPA" or a derivative by an unlicensed person. The suits had not been filed because a similar case is currently on appeal in the Court of Civil Appeals. The court's decision in this case may affect the Board's handling of the cases which are pending; therefore, the Board has delayed further action awaiting the court's decision.

At the time of the review complaint files referred to the Attorney General's Office moved back and forth between the two offices without transmittal advices or letters. In addition, there was no central file for all such cases from which information could be readily retrieved; data on each case was filed individually under one of six different file categories.

#### Enforcement

The Board has no field investigators or enforcement officers on its staff. Therefore, the Board relies heavily upon permit holders to perform a self-policing function for the Board. Most of the complaints handled by the Board are filed by permit holders against unlicensed persons for various infractions of the statutes. Complaint processing procedures used by the Board provide no follow-up or feedback to verify that the recipients of the Board's "cease and desist" letters actually comply with the statutes after receipt of the letter. The person who made the complaint receives a copy of the "cease and desist" letter, but does not receive notification of the final disposition of the complaint by the Board.

## Summary

The procedures used in processing complaints are in accord with the statutory duties and responsibilities placed upon the Board. However, in some instances the time required to finally dispose of complaints involving hearings is excessive. In addition, procedures used to inform complainants of the steps taken to achieve final disposition are not structured so as to supply complete information.

In the area of actions involving injunctive relief, the record system used by the Board is not structured so as to provide ready access for review and follow-up action.

EXHIBIT VI-1

Complaints Processing Procedures

Written Complaint Received by Board Office

Administrative Director Refers Complaint to Board Chairman

In cases of obvious violations Board Chairman after check of files sends first warning letter to person complained against. If person assures discontinuance of illegal practice, file is closed. Board Chairman handles about 90 percent of complaints and sends periodic reports to Board. In this category about 70 percent are complaints against unlicensed persons and about 75 percent are against illegal use of descriptive terms---Certified Public Accountant (CPA) or Public Accountant (PA) or many derivatives. If no reply is received to first warning letter, a second warning letter (tracer), setting a deadline for reply, is mailed. The complaint is referred to the Attorney General if no response is received to this letter. Only complaints against unlicensed persons are referred to the Attorney General.

Attorney General sends a letter to unlicensed person. If person assures discontinuance of illegal practice, the file is closed. If no reply is received, the Board decides whether or not to seek a district court order enjoining the unlicensed person from violating the Public Accountancy Act. The Attorney General files the suit.

If unlicensed person disagrees with court decision, appeal can be filed.

If the court issues the injunction and the unlicensed person accepts ruling, file is closed.

Board Chairman refers complaints against licensed persons on major alleged violations---substandard accounting work for example--- and cases with degree of doubt on guilt or innocence to Board.

Board decides whether or not to hold a hearing.

Board-ordered investigation of case by private investigator or CPA on contract may be conducted.

Board gives notice of hearing at least 20 days before hearing to licensee complained against and notifies all parties concerned of hearing.

Hearing held. Board decides on appropriate action---not guilty, refusal to renew permit, reprimand, suspension up to five years with or without educational requirements or revocation of license. Board represented by outside counsel at hearing. Licensee has right to appear and to be represented by an attorney. Subpoenas may be issued. Both Board and licensee have right to present witnesses, evidence.

Licensee agrees with Board's decision; file is closed.

Licensee disagrees with Board's decision; appeals to district court. Attorney General represents Board on appeals. Appeal deadline is 30 days after Board mails copy of its order to licensee.

EXHIBIT VI-2

Texas State Board of Public Accountancy  
 Complaints Processed by Board Chairman  
 December 1974 to October 1977

	<u>Number</u>	<u>Licensed</u>	<u>Un- Licensed</u>
Complaints Processed by Board Chairman	<u>414</u>	<u>125</u>	<u>289</u>
Percentages	<u>100.00</u>	<u>30.19</u>	<u>69.81</u>

<u>Data on 48 Selected Complaints</u>	<u>Number</u>	<u>Percent of Total</u>
Use of CPA, PA or a Derivative by Unlicensed Person or Firm	39	81.25
Advertising	4	8.34
Soliciting Clients	2	4.17
CPA Office Designation	1	2.08
Combination-Advertising and Unlawful use of CPA, PA or Derivative	1	2.08
Substandard Accounting Work	<u>1</u>	<u>2.08</u>
Total	<u>48</u>	<u>100.00</u>

	<u>Licensees</u>	<u>Un- Licensed</u>	<u>Total</u>
<u>Complaints Filed Against</u>	<u>18</u>	<u>30</u>	<u>48</u>

<u>Disposition of Complaints</u>	<u>Number</u>
Closed by Use of Warning (Cease and Desist) Letters	43
Dismissed (Complaints Lacked Justification)	<u>5</u>
Total	<u>48</u>

EXHIBIT VI-3

Texas State Board of Public Accountancy  
Disciplinary Hearings by Board in 1975, 1976 and 1977

Complaints	Violations				Board Action				
	Board Hearings	No. of Charges	Statutes	Rules of Professional Conduct	Revoked License	Reprimands	Suspensions Indefinite	Years Months	Dismissed
1	3	1	2			1			
2	1	1			1				
3	2	1	1		1			3 Years	
4	2	1	1					1-3 Years	
5	1	1							
6	1	1						1 Year	
7	1	1				1			
8	4	1	3					6 Months	
9	3	2	1		1				
10	3	2	1				1		
11	2		2			1			
12	1		1			1		30 Days	
13	1		1					30 Days	
14	1		1			1			
15	1		1				1		
16	2	2			1				
17	3	2	1			1		30 Days	
18	1		1		1				
19	1		1					2 Years	
<b>Totals</b>	<b>34</b>	<b>16</b>	<b>18</b>		<b>5</b>	<b>6</b>	<b>2</b>	<b>8</b>	<b>1</b>

Types of Violations	Statutes	Rules
Conduct discreditable to the profession	12	
Dishonesty, fraud or gross negligence in the practice of public accounting	3	
Failure to renew annual permit	1	
Substandard accounting work		6
Prohibition against advertising		3
Prohibition against competitive bidding		3
Soliciting clients		5
Use of another occupation to augment public accounting practice		1

### Criterion 7

The extent to which the agency has encouraged participation by the public in making its rules and decisions as opposed to participation solely by those it regulates, and the extent to which the public participation has resulted in rules compatible with the objectives of the agency.

The review under this criterion began with a determination of the statutory requirements regarding public participation both in the agency's enabling law and general statutes. The agency's procedures were reviewed to determine compliance with these statutes. The agency files and self-evaluation report were reviewed to determine the nature and extent of public participation and any results which might be attributed to public participation.

#### Public Participation

Interviews of agency personnel and review of minutes of Board meetings reveal that the Board has not made any visible effort to inform the general public of the purposes and functions of the Texas State Board of Public Accountancy. The agency has not purchased media advertising for public purposes, nor has it conducted seminars, conferences or training sessions specifically designed to inform the public of its activities or publicize the profession of accountancy in Texas.

The only publication prepared by the agency is a Roster of Permit Holders which is prepared in the even-numbered years. Copies of the Roster, the Public Accountancy Act of 1945, and the Board's Rules of Professional Conduct are provided to all permit holders. Copies of the three documents are provided to the public upon request and without charge. Agency personnel stated that a small number of requests were received each year for copies of the Roster, the Act, and

## Rules of Professional Conduct.

There are no statutory requirements that the Board make public announcements except the provision that requires advertising the times and places of scheduled CPA examinations.

Minutes of Board meetings show no attendance or participation by the general public in its proceedings. Generally there is no attendance or participation by permit holders unless they are involved in hearings of complaints by the Board.

All members of the Board must be holders of permits issued by the Board and must be actively engaged in the practice of public accounting in Texas. Inquiry of the staff and one Board member reveals that there has never been any formal discussion about the desirability of a consumer representative (public member) on the Board. It was stated that the duties and responsibilities of the Board members require a high level of knowledge and competency in the profession of accounting, particularly in the area of the public practice.

### Summary

In summary, there has been little effort by the Texas State Board of Public Accountancy to generate public participation in its proceedings, nor is there any statutory requirement that the Board do so. Information concerning other similar agencies indicates that the lack of public involvement in agency proceedings is characteristic of all such agencies.

### Criterion 8

The extent to which the agency has complied with applicable requirements of an agency of the United States or of this state regarding equality of employment opportunity and the rights and privacy of individuals.

The review under this criterion centered on an identification of agency Equal Employment Opportunity reporting requirements and policies regarding the rights and privacy of individuals. Federal and state statutes were reviewed; agency policies and procedures were documented; and appropriate agency files were inspected to determine the adequacy of records maintained to verify the data presented under this criterion. The Governor's Office of Personnel and Equal Employment Opportunity was consulted. The general procedures regarding personnel actions and protection of the rights and privacy of individuals were examined through interviews and review of files.

The Texas State Board of Public Accountancy filed an Affirmative Action Plan with the Governor's Personnel and Equal Opportunity Office on July 26, 1974. An interview with an employee of the Governor's Personnel and Equal Employment Opportunity Office and a review of the Board's file on that visit did not disclose any past or current problems. The file contained a letter dated February 24, 1978 which accompanied the Board's semi-annual Affirmative Action Report. The objective of the Board's Affirmative Action Plan is to assure equal opportunity to all applicants without regard to race, color, or creed. The plan contains a statement that specific efforts will be made to contact organizations which might refer qualified minority applicants when the Board is recruiting new employees. Interviews with the Board's staff indicated that the recruiting of new employees is

being done in accordance with the provisions of the Affirmative Action Plan. In March 1978, the Board's staff consisted of 14 female employees of which two were Blacks and one was Mexican-American.

Interviews of agency personnel disclosed that no charges of discrimination or unfair employment practices had ever been filed against the Board. Such interviews also disclosed that no charges of invasion of privacy or infringement of personal rights had ever been filed against the Board. The three-member Employee Grievance Committee has never processed a complaint from any employee of the Board.

#### Summary

In summary, our review disclosed that the Texas State Board of Public Accountancy has taken steps to comply with federal and state requirements concerning equal employment opportunity and the rights and privacy of individuals.

### Criterion 9

The extent to which the agency issues and enforces rules relating to potential conflict of interests of its employees.

The review under this criterion centered on an identification of documented agency practices and procedures regarding the filing of individual financial statements and affidavits with the Office of the Secretary of State. The provisions of the statute (Article 6252-9b, V.A.C.S.) were reviewed and agency interpretations of the nature and intent of the provisions of the Act were sought. Records maintained by the agency and the Secretary of State under the authority of the legislation concerned with conflict of interest were reviewed to determine the extent of agency compliance with the letter and intent of the Act and to verify the accuracy of the data presented under this criterion. In addition, inquiries were directed to selected areas where conflicts of interest might exist that could not be discerned through review of official documents.

#### Administrative Procedures

Although the agency does not enforce a formal set of rules governing potential conflict of interests, administrative procedures do satisfy reasonable requirements given the small size of the staff involved. The agency requires that each new employee receive and sign a receipt for: 1) H.B. 753, 1951, providing for the accounting and responsibility for and use of state-owned property, 2) Section 4 of the current General Appropriations Act relating to political and legislative influence, and 3) Article 6252-9b, Standards of Conduct of State Officers and Employees. In addition, new employees must sign the following documents: 1) form concerning grievance procedures, 2) form on "Annual Leave," 3) form asking

if any employee had outside employment and if so, the name and address of the other employment, and 4) form concerning "Procedures Under the Texas Tort Claims Act." In the Board's Rules of Professional Conduct Rule Number Seven states the following: "Direct or indirect offer of employment shall not be made by a public accountant to an employee of another public accountant without first obtaining the consent of such other accountant. This rule shall not be construed to inhibit negotiations with any such employee who of his own initiative shall apply to a public accountant for employment." Rule Number Seven applies to CPA's and P.A.'s, however, not to the Board's employees.

A review of Board Minutes for the past three years shows no instances where Board members disqualified themselves from the decision-making vote process because of conflict of interest.

Based on a review of agency files and interviews with the executive director, it appears that the Board's procedures conform to the provisions of the law.

#### Financial Statement

In compliance with Article 6252-9b, V.A.C.S. the Executive Director has filed a financial statement with the Secretary of State. This statement is current and appears to satisfy legal requirements.

#### Affidavits

In compliance with Article 6252-9b, Section 5, each member of the Board has filed an affidavit with the Secretary of State, which indicates the nature of their business interests and whether or not such business interests are subject to state regulation. The "Public Accountancy Act of 1945" requires that Board Members be Certified Public Accountants (CPA's) or Public Accountants (P.A.'s). No improprieties are apparent from an inspection of the affidavits of Board members.

### Summary

In summary, no information was obtained during the investigation which would indicate that individual members of the Board or employees of the agency have maintained financial or other interests which are in conflict with the purposes and operations of the Public Accountancy Act of 1945 or Article 6252-9b, V.A.C.S. In the review of agency procedures, the financial statement filed by the executive director and the affidavits filed by Board members, no problems of conformity with the conflict of interest provisions were apparent.

### Criterion 10

The extent to which the agency complies with the Open Records Act and the Open Meetings Act.

Examination of elements under this criterion was separated into components dealing with responsibilities for making agency documents available to the public under open records requirements and responsibilities for public notification of proposed agency actions. Under the area of open records, statutes were reviewed in relation to written or unwritten policies used by the agency. Where written policies did not exist, interviews were conducted to determine actual compliance. Materials contained in the self-evaluation report were verified and open records decisions reviewed. Open meetings compliance was verified through review of agency written and unwritten policies to determine if they accurately reflected statutory requirements. Interviews with agency personnel were conducted in instances where written policies were lacking or information contained in minutes of meetings was incomplete or unclear. Records in the Office of the Secretary of State were reviewed on a selected basis to determine compliance with posting and informational requirements.

#### Open Records

While the State Board of Public Accountancy has not adopted formal written policies concerning access to records, the informal procedures of the agency are to make records open to the public available during working hours. The Attorney General has advised the Board of the charges that should be made of the individual requesting copies of available documents. Interviews with staff of the Board indicate that the number of such requests, in the past, has been very low.

After consulting with the Attorney General, the only records which the agency holds as confidential are those dealing with personal information on individual permit holders, individual CPA candidates, and other individuals voluntarily assisting the Board in its enforcement duties which would, if disclosed, constitute an invasion of privacy to that individual.

While the Board has not adopted formal written policies concerning access to records, the informal policy is to refer inquiries to the executive director for resolution. If the executive director cannot answer the inquiry, it is referred to the Board Chairman for resolution and if no resolution can be made at this level, an Attorney General's ruling is sought on the matter.

#### Open Meetings

The State Board of Public Accountancy, like other similar governmental agencies, must meet certain requirements relating to public notification of scheduled meetings and the conduct of such meetings once convened. Current statutory provisions require that written notice of the date, hour, place and subject of state governmental body meetings must be filed with the Secretary of State and published in the Texas Register at least seven days prior to the meeting.

Proposed rule changes require notice to be published at least 30 days prior to the meeting in the Texas Register. In the event of an emergency meeting, two hours shall be sufficient time for a posted notice. Any action taken at a meeting on a subject not covered by the notice shall be voidable.

Board meetings are held approximately eight or nine times a year. In the past three years, approximately one-third of the Board meetings were held in conjunction with meetings of the National Association of State Boards of Accountancy (NASBA) and the American Institute of Certified Public Accountants (AICPA) which were held outside the State of Texas. During the past three years,

out-of-state meetings have been held in Washington, D.C.; Philadelphia, Pennsylvania; New Orleans, Louisiana; Marco Island, Florida; Chicago, Illinois; and Williamsburg, Virginia. All other meetings were held in Texas.

Regular meetings frequently involve formal hearings, in which case a hired attorney attends as counsel to the Board and a court reporter is hired. All hearings are conducted in accordance with the Texas Administrative Procedures Act. After the open hearing, the defendant and his attorney usually wait in another room while the Board makes a decision. The decision of the Board is usually made known to the defendant and his attorney the same day the hearing is held. A question was raised concerning whether the defendant and his attorney could be present while the Board discusses the case in question. The executive director saw no reason why this could not be done, although the Board has not followed this procedure.

Actions of the Board in which revocation of license, suspension of license, and/or reprimands are discussed and rulings issued are open to the public. Final actions of the Board are published in the Texas Society of Certified Public Accountants newsletter, The CPA News, and the public accountants magazine, Texas Association of Public Accountants Monthly Ledger. In addition, the National Association of State Boards of Accountancy and the professional ethics group of the American Institute of CPA's are notified.

The agency does not maintain specific records of public attendance at Board meetings. Attendance at meetings usually consists only of Board members, staff, and those parties who are specifically involved in Board hearing and other activities. In such cases, the individuals are identified through regular minutes recorded for Board meetings which are on file and available for public inspection.

#### Notification Procedures

The only formal procedure for advanced public notification regarding

scheduled Board meetings is through the Texas Register Division of the Secretary of State. A review of these records indicated that all notices filed by the agency have been filed well in advance of the required seven-day limit.

Persons requesting an appearance before the Board are written a letter advising them of the meeting schedule. There is no media advertising by the agency or advanced mail notification of licensees, nor is any required by statute. The budget for the agency does not include any specific appropriation for such activities.

Rule Changes

All proposed rule changes are posted in the Texas Register 30 days prior to formal consideration by the Board. During the past three years, the Board proposed two changes to the Rules of Professional Conduct which were submitted to a vote by all 16,669 licensees of the Board. Tabulation of the vote taken in 1977 for changing rules 12 and 18 are listed below.

Results of Election

Rules of Professional Conduct, as Amended

<u>Rule</u>	<u>For</u>	<u>Against</u>	<u>Total Voting</u>	<u>Not Voting</u>	<u>Total Number of Ballots Mailed</u>
12	6,955	607	7,562	9,107	16,669
18	7,141	421	7,562	9,107	16,669

Summary

In summary, the State Board of Public Accountancy appears to maintain adequate records which are open to public inspection, yet safeguard confidential information. Procedures used to classify information as confidential appear to conform to the provisions of the Open Records Act.

Openness of public meetings implies both notification and accessibility. The procedures utilized by the Board for advance notification of public meetings fulfill statutory requirements. Many of the Board's meetings held out-of-state are inaccessible to most members of the public and the regulated profession. Notification and the voting on proposed rule changes appears to be adequate.

### Criterion 11

The impact in terms of federal intervention or loss of federal funds if the agency is abolished.

The Texas State Board of Public Accountancy does not operate under any federal mandate which affects its regulation of the practice of public accounting in Texas. However, the U.S. Department of Justice, through its Anti-Trust Division, presented a Civil Investigative Demand letter to the Board in 1974 seeking a review of the Board's records concerning Rule 14 of the Board's Rules of Professional Conduct. Rule 14 reads: "A public accountant shall not make a competitive bid for professional services".

The U.S. District Court, Austin, denied such access to the Board's records, but the U.S. Court of Appeals, Fifth Circuit, New Orleans, overturned the trial court decision and awarded the Justice Department access to the Board's records and files concerning competitive bidding.

The Anti-Trust Division of the U.S. Department of Justice filed suit in November, 1976 against the Board alleging that Rule 14 violates the Sherman Anti-Trust Act. The suit, in U.S. District Court, Austin, is still under consideration and there is no firm indication regarding the timing of final disposition.

At the present time, the Federal Trade Commission is engaged in a survey of all state boards of public accountancy. The data being gathered through questionnaires is comprehensive in its coverage of the operations of such boards. Review of agency files disclosed the following statement in a letter which the FTC had mailed to all state boards of public accountancy: "The Federal Trade Commission has directed its staff to investigate whether or not accountants and

others may have been, or may now be engaged in unlawful practices under the FTC Act". Upon conclusion of its analysis of the data from the questionnaires a report will be made by the FTC Chicago Office to the FTC in Washington, D.C. Interviews indicated that the report would identify any areas of public accountancy which are considered to be in "restraint of trade" and suggest remedies which should be applied. The questionnaires are presently (March, 1978) under analysis and no date has been set for release of any report thereon.

There would be no loss of federal funds if the Texas State Board of Public Accountancy is abolished. The Board is financed from examination and license fees received from candidates for the CPA examination and renewals of permits to practice public accounting. Operations of the Board have never required the appropriation of any state funds.

## CONCLUSIONS

The need for regulation of the profession of public accountancy is based upon relationships between accountancy, business enterprise, governmental agencies, and the public interest. Publicly owned corporations, banks and other credit granting institutions, national and state governmental agencies, and the general public require the services of public accountants. Inter-relationships between the communities of business, government and public provide opportunities in which one of the communities may rely heavily upon information supplied to the other community by public accountants. The consequences of relying upon statements and certifications prepared by incompetent or unregulated public accountants could have serious consequences to business owners, lending institutions, governmental agencies, and public investors. Therefore, all states, the District of Columbia, Guam, Puerto Rico, and Virgin Islands have provided legislation which regulates the practice of public accountancy.

The Texas State Board of Public Accountancy is charged with administration of the provisions of the Public Accountancy Act of 1945, as amended. Provisions of the Act require the examination, licensing and regulation of public accountants in the State of Texas. Regulation is accomplished through enforcement of the prohibition and penalty clauses of the Act and by promulgation of rules of professional conduct. Such rules of professional conduct must be designed "...to establish and maintain a high standard of integrity in the profession of public accountancy, after notice to all holders of valid permits to practice public accountancy in this state."

The Board's operations are required by statute to be financed by the various fees collected from applicants for examination and permit holders (licensees). Funds of the Board are maintained in a local bank in Austin. Expenditures of the

Board are prohibited from ever becoming a charge upon the general revenue fund of the State of Texas.

An important element of the Act is that it provides no jurisdiction over bookkeepers or tax return preparers except to prohibit their holding themselves out to the public as public accountants by the use of titles or designations which could be confused with CPA or PA. Analysis of legislative changes in the Act since 1945 indicates that increases have occurred in requirements for the CPA examination in the areas of education, experience and fees. However, such increases have not had the effect of slowing the growth in numbers of applicants for examination nor in numbers of applicants who are successful in passing the examination.

The Boards use of the standard examination, prepared and graded by the American Institute of Certified Public Accountants, facilitates the granting of reciprocal licenses and the transfer-of-credits among all states. The Boards of Accountancy of the 50 states, District of Columbia, Guam, Puerto Rico, and the Virgin Islands use the American Institute examination and grading services. It should be noted that the Texas State Board of Public Accountancy is not subject to any control or direction of the American Institute or any other state or national accounting organization.

The review indicates that the Board exercises budgetary restraints in its operations. Administrative rules affecting operations parallel those of state agencies which are controlled through the legislative appropriations process to a great extent and the Board has demonstrated its desire to implement improved or corrective procedures wherever problems may occur.

The Board has administered the provisions of the Act as they affect CPA examinations and issuance and renewal of permits in a satisfactory manner. Enforcement provisions of the Act require the expenditure of considerable time and

money by the Board. Review of the Board's enforcement activities indicates continuous efforts to establish and maintain a high degree of integrity on the part of permit holders and to curtail the illegal practices of unlicensed persons who violate provisions of the Act.

If the legislature determines that the functions of the Texas State Board of Public Accountancy should continue, the following operational changes could be considered to increase the efficiency and effectiveness with which these functions are performed:

**INCREASED EFFECTIVENESS COULD BE ACHIEVED BY A REDUCTION IN THE TIME INTERVAL USED BY THE BOARD IN HEARINGS ON COMPLAINTS**

The average time interval from receipt of a complaint, which requires a hearing before the Board, until the matter is heard averages 228 days (approximately seven and one-half months). Such cases involve serious charges against permit holders (licensees) and may result in revocation, suspension, or refusal to renew the permit of the accused or in a reprimand. It is suggested that the Board devise and implement a plan whereby such cases may be heard and acted upon at the earliest possible date.

**IMPLEMENTATION OF A MONTHLY STATUS REPORT ON COMPLAINTS COULD AID THE BOARD IN EXPEDITING THE MORE SERIOUS COMPLAINTS**

Provision of information to the Board regarding the status of complaints should highlight areas to which the Board could focus its attention. Since the Board has only six meetings per year, on the average, consideration could then be given to special called meetings for the purpose of hearings on complaints involving possible revocation, suspension, or refusal to renew permit or reprimanding of the permit holder.

**CONSIDERATION SHOULD BE GIVEN TO NOTIFYING COMPLAINANTS OF DISPOSITION OF THEIR COMPLAINTS TO IMPROVE EFFECTIVENESS IN ENFORCEMENT AGAINST UNLICENSED OFFENDERS**

Present Board practice provides that a copy of the "cease and desist" letter to an accused person be mailed to the person who made the complaint. However, no provision is made for notification to the complainant of the final disposition of such cases.

It is suggested that the Board implement a follow-up procedure which provides the person who files a complaint with a copy of all correspondence between the Board and the accused, including notification of the disposition of the case.

#### ESTABLISHMENT OF A CENTRAL FILE OF COMPLAINTS SHOULD INCREASE EFFICIENCY IN PROCESSING OF COMPLAINTS

The review disclosed that no central file is maintained for data concerning complaints. Data on complaints are filed under one of six separate categories thereby making retrieval more time consuming.

The creation of a central file which includes all data relating to complaints would make such data readily available. Data from this file would expedite the preparation of any status reports required by the Board.

#### THE BOARD SHOULD CONSIDER REQUESTING AN OPINION FROM THE ATTORNEY GENERAL TO DETERMINE IF THE BOARD HAS AUTHORITY TO CONTINUE TO WAIVE PART OF SECTION 15 OF THE ACT

The Board waives that portion of Section 15 of the Act which reads "... (1) if a candidate fails to score a grade of fifty percent (50%) on any subject in an examination, the Board shall refuse to admit him to write that subject in the next succeeding examination;..." in cases where the candidate scores 48 or 49 points on the examination subject.

It was suggested to the Board Chairman that an opinion of the Attorney General be requested on this waiver. It was agreed that the request would be made and that the Board would comply with the terms of the opinion.

#### CONSIDERATION SHOULD BE GIVEN BY THE BOARD TO REQUESTING AN OPINION OF THE ATTORNEY GENERAL AS TO THE IMPACT OF RECENT COURT DECISIONS ON THE BOARD'S CURRENT RULE PROHIBITING ADVERTISING BY ITS LICENSEES

Implications of the decision of the U.S. Supreme Court in Bates vs. State Bar of Arizona to the Board concerning its Rule 9 were discussed with the Board Chairman on April 5, 1978. Rule 9 of the Rules of Professional Conduct is titled "A public accountant shall not advertise." The subject of Bates vs. State Bar of Arizona was prohibition of advertising legal services in the State of Arizona in which the U.S. Supreme Court held that: (1) the restraint upon attorney advertising imposed by the Supreme Court of Arizona wielding the power of the state over the practice of law, was not subject to attack under the Sherman Anti-Trust Act, and (2) the attorneys' advertisement was not misleading and fell within the scope of First Amendment protection.

The Board Chairman stated that one of the items on the agenda for the Board's meeting set for April 18-19 concerns the Bates vs. State Bar of Arizona decision.

It is suggested that the Board seek the assistance of the Attorney General's office by requesting an opinion on the application of the U.S. Supreme Court decision to the Board's Rule 9 and advising what action, if any, might be taken by the Board under the circumstances.

**CONSIDERATION SHOULD BE GIVEN TO REQUIRING AGENCY FUNDS BE DEPOSITED IN THE STATE TREASURY AND BE SUBJECT TO APPROPRIATIONS BY THE LEGISLATURE**

The review of operations of the Texas State Board of Public Accountancy did not reveal any operational problems or dereliction of duties which represent compelling reasons for transfer of the agency into the appropriations process. However, other factors may make this consideration desirable such as: 1) uniformity of budgeting, accounting, and reporting procedures, 2) conformity by all state agencies with personnel policies, job classification, salary schedules, and other provisions in Article 5, General Provisions, 3) full accountability for all state funds on a uniform basis for all agencies, and 4) periodic review by the Governor's Budget Office, the Legislative Budget Board, and the Legislature.