

HOUSE BILL No. 2242

By Committee on Commerce and Labor

2-7

AN ACT concerning accountants and accountancy; relating to investigations.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) Upon receipt of a complaint or information suggesting violations of the accountancy statutes or the rules and regulations of the board of accountancy, the board may conduct investigations to determine whether there is probable cause to institute proceedings under K.S.A. 1-311, 1-312, 1-316, 1-322 and amendments thereto. An investigation shall not be a prerequisite to such proceedings in the event that a determination of probable cause can be made without an investigation.

(b) The board may designate one or more board members to serve as investigating officers. The investigation officer or officers may employ, appoint, designate or utilize any other person of appropriate competence to assist with the investigation, including providing testimony in the event of a hearing.

(c) Upon completion of an investigation, the investigating officer or officers shall determine whether probable cause exists based upon the documents gathered, discussions with the person or firm under investigation and reports submitted by any other person assisting with the investigation.

(d) If the investigating officer or officers find no probable cause, the complaint, if any, the testimony and any documents gathered during the investigation including any information regarding the pendency of an investigation shall be confidential and shall not be disclosed to any person, without the consent of the person or firm under investigation, except to law enforcement and state or federal agencies.

(e) Upon a finding of probable cause, the matter may be referred for prosecution or disciplinary action to the office of attorney general or to an attorney retained by the board.

(f) No person who provides services to the board in conjunction with any investigation authorized in subsection (a) shall be liable in a civil action for damages or other relief arising from any testimony, recommendation, or opinion provided by such person acting in good faith and without malice.

1 (g) In aid of such investigations, the investigating officer may issue
2 subpoenas to compel the attendance and testimony of any person or the
3 production for examination or copying of documents or any other evi-
4 dence in the possession of any person.

5 Sec. 2. (a) If the board's order is adverse to a firm, an applicant, a
6 certificate or permit holder or a person practicing pursuant to K.S.A. 1-
7 322 and amendments thereto, reasonable costs incurred by the board in
8 conducting any proceeding under the Kansas administrative procedure
9 act may be assessed against the parties to the proceeding in such pro-
10 portion as the board may determine upon consideration of all relevant
11 circumstances including the nature of the proceeding and the level of
12 participation by the parties. If the board is the unsuccessful party, the
13 board shall absorb the board's costs.

14 (b) For the purposes of this section, board costs incurred shall mean
15 the presiding officer fees and expenses, costs of making any transcripts,
16 statutory witness fees and mileage, and any fees and expenses of persons
17 identified in subsection (b) of section 1, and amendments thereto. Board
18 costs incurred shall not include presiding officer fees and expenses or
19 costs of making transcripts unless the board has designated or retained
20 the services of independent contractors to perform such functions.

21 (c) In either the order disposing of the case or in a subsequent order,
22 the board shall make an assessment of reasonable costs incurred in the
23 proceeding. Such order shall include findings and conclusions in support
24 of the assessment of costs.

25 Sec. 3. This act shall take effect and be in force from and after its
26 publication in the Kansas register.

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