

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1959



ENROLLED

HOUSE BILL No. 57

(By Mr. Kidd)



PASSED Feb 26 1959

In Effect 90 days from Passage



Filed in Office of the Secretary of State  
of West Virginia MAR 5 1959  
JOE F. BURDETT  
SECRETARY OF STATE

**ENROLLED**

**House Bill No. 51**

(By MR. KIDD)

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[Passed February 26, 1959; in effect ninety days from passage.]

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AN ACT to repeal article nine, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof a new article nine, creating and establishing a state board of accountancy, prescribing its powers and duties, regulating the practice of public accounting, providing for the certification and registration of persons engaged in accounting and the issuance of certificates and registration cards to such persons, and providing penalties for the violation of the provisions of this article.

*Be it enacted by the Legislature of West Virginia:*

That article nine, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed and a new article nine be enacted in lieu thereof, to read as follows:

Section 1. *Board of Accountancy.*—There shall be a  
2 state board of accountancy, known as the “West Virginia  
3 Board of Accountancy”, which shall consist of six mem-  
4 bers to be appointed by the governor by and with the  
5 advice and consent of the senate for terms of three years.  
6 All vacancies occurring on the board shall be filled by  
7 the governor. The members composing the original board  
8 shall be appointed by the governor to serve as follows:  
9 Two for a term of three years; two for a term of two  
10 years; two for a term of one year, from July first, nineteen  
11 hundred fifty-nine. Thereafter, as the terms of office  
12 respectively of the members expire by the limitation the  
13 governor shall appoint, to fill the vacancies so occasioned,  
14 qualified persons whose terms shall be for three years  
15 from the day on which that of their immediate prede-  
16 cessors expired. At all times, at least three members of  
17 the board shall be holders of a certified public accountant  
18 certificate issued under the laws of this state, and three  
19 members shall be public accountants who are eligible to  
20 be registered under the provisions of this article. All  
21 members shall have been engaged in the active practice

22 of public accounting in this state for at least five years  
23 next preceding their appointment. The governor shall  
24 remove from the board any member whose registration  
25 card has become void, revoked or suspended, and may  
26 remove any member of the board for official misconduct,  
27 incompetence, neglect of duty or gross immorality.

28 Each member of the board shall be paid twenty-five  
29 dollars for each day or portion thereof spent in the dis-  
30 charge of his official duties and shall be reimbursed for  
31 his actual and necessary expenses incurred in the dis-  
32 charge of his official duties.

33 All fees and other moneys received by the board pur-  
34 suant to the provisions of this article shall be kept in a  
35 separate fund and expended solely for the purposes of  
36 this article. No part of this special fund shall revert to  
37 the general funds of this state. The compensation pro-  
38 vided by this article and all expenses incurred under this  
39 article shall be paid from this special fund. No compen-  
40 sation or expense incurred under this article shall be a  
41 charge against the general funds of this state.

42 The board shall have the power and it shall be its duty

43 to make and enforce all necessary rules and regulations,  
44 not inconsistent with this article, for the examination,  
45 certification, and registration of public accountants, and  
46 for the general practice of public accounting.

47 The board may promulgate and amend rules of pro-  
48 fessional conduct appropriate to establish and maintain  
49 a high standard of integrity in the profession of public  
50 accountancy, which rules shall be applicable to both  
51 certified public accountants and registered public ac-  
52 countants. At least sixty days prior to the promulgation  
53 of any such rule or amendment, the board shall mail  
54 copies of the proposed rule or amendment to each person  
55 certified or registered under the provisions of this article  
56 with a notice advising him of the proposed effective date  
57 of the rule or amendment and requesting that he submit  
58 his comments thereon at least fifteen days prior to such  
59 effective date; such comments shall be advisory only.  
60 Failure to mail such rule, amendment or notice to all  
61 persons certified or registered shall not affect the validity  
62 of any such rule or amendment.

63 Members of the board who do not hold a certificate of

64 certified public accountant shall have no authority with  
65 respect to the granting of certificates of certified public  
66 accountant as provided in section two of this article, nor  
67 to the issuance of a certificate of certified public account-  
68 ant by reciprocity as provided in section five of this article.

Sec. 2. *Certified Public Accountants.*—The certificate of  
2 “certified public accountant” shall be granted by the board  
3 to any person:

4 (1) Who is a citizen of the United States or who has  
5 duly declared his intention of becoming such citizen, and  
6 who is domiciled in the state of West Virginia, or has a  
7 place of business therein at the time of making applica-  
8 tion;

9 (2) Who is over the age of twenty-one years;

10 (3) Who is of good moral character;

11 (4) Who is a graduate of a high school with a four-  
12 year course, or who, in the opinion of the board, has had  
13 equivalent education;

14 (5) Who shall have for at least two years preceding  
15 the date of his application been engaged in practice as  
16 a public accountant or shall have been employed as a

17 staff accountant of a practicing certified public accountant  
18 or public accountant; or who shall have been actively  
19 employed for at least four years preceding the date of his  
20 application by the United States treasury department as  
21 an internal revenue agent; or who shall have been actively  
22 employed for at least four years preceding the date of  
23 his application by any federal or state supervisory agency  
24 or instrumentality as an auditor or examiner, whose  
25 duties entail the audit or verification of accounts and  
26 records and the preparation, based thereon, of reports to  
27 such agency or instrumentality for the purposes of su-  
28 pervision or regulation: *Provided*, That the experience  
29 required in this subsection shall include the preparation  
30 of balance sheets and operating statements from general  
31 books, or who, in the opinion of the board, shall have had  
32 experience equivalent to that required in the foregoing,  
33 and the board shall recognize that the equivalent expe-  
34 rience may be obtained independently of employment  
35 with a practicing certified public accountant, public ac-  
36 countant, the United States treasury department, or any

37 federal or state supervisory agency or instrumentality, as  
38 hereinabove set forth; and,

39 (6) Who shall have passed an examination in theory  
40 of accounts, accounting practice, auditing, commercial  
41 law and/or such other related subjects as the board may  
42 deem advisable. All matters relating to the examination  
43 and certification of applicants for the certificate of cer-  
44 tified public accountant shall be handled by only those  
45 members of the state board of accountancy who are hold-  
46 ers of a certificate of certified public accountant.

47 No applicant shall be examined in the subjects stated  
48 in subsection (6) until the board shall have been satisfied  
49 in respect to the requirements stated in subsections (1)  
50 to (5) inclusive, except, however, that any person pos-  
51 sessed the necessary qualifications, except the practical  
52 experience, who shall have completed an accountancy  
53 course in a university or college of recognized standing,  
54 or graduated from an accountancy school acceptable to  
55 the board, may be examined in the subjects specified in  
56 subsection (6) and upon receiving a satisfactory grade

57 shall be granted the certificate of certified public ac-  
58 countant.

59 Five years after the enactment of this article the edu-  
60 cational requirement for taking the examination for a  
61 certificate shall be a degree or certificate conferred by a  
62 college, university or other educational institution ap-  
63 proved by the board, with a major in accounting, or what  
64 the board determines to be the equivalent of the forego-  
65 ing, or with a nonaccounting major supplemented by what  
66 the board determines to be the equivalent of an account-  
67 ing major, including related courses in all areas of busi-  
68 ness administration: *Provided, however,* That this re-  
69 quirement shall not apply to persons duly registered as  
70 public accountants before January first, one thousand nine  
71 hundred sixty.

72 Any person who has received from the board a cer-  
73 tificate as a certified public accountant shall be designated  
74 and known as a certified public accountant; and every  
75 person holding such certificate, and every copartnership  
76 of accountants in which all members practicing in this  
77 state hold such a certificate, may assume and use the title

78 of certified public accountant or the abbreviation thereof,  
79 "C. P. A." Any certified public accountant may also be  
80 known as a "Public Accountant."

81 Persons, who, on the effective date of this article, held  
82 certified public accountants' certificates theretofore issued  
83 by the board of this state shall not be required to obtain  
84 additional certificates under this article, but shall other-  
85 wise be subject to all provisions of this article; and such  
86 certificates theretofore issued shall, for all purposes, be  
87 considered certificates issued under this article and sub-  
88 ject to the provisions hereof.

Sec. 3. *Public Accountants—Registration Thereof.*—A

2 person shall be deemed to be in practice as a public ac-  
3 countant within the meaning and intent of this article:

4 (a) Who holds himself out to the public in any manner  
5 as one skilled in the knowledge, science and practice of  
6 accounting, and as qualified and ready to render profes-  
7 sional service therein as a public accountant for compen-  
8 sation; or

9 (b) Who maintains an office for the transaction of busi-  
10 ness as a public accountant; or

11 (c) Who offers to the public to perform for compen-  
12 sation, or who does perform for the public for compen-  
13 sation, professional services that involve or require an  
14 examination, verification, investigation or review of finan-  
15 cial transactions and accounting records; or

16 (d) Who prepares reports on examinations of books  
17 or records of account, balance sheets, and other finan-  
18 cial, accounting and related schedules, exhibits and  
19 statements, or reports which are to be used for publica-  
20 tion, credit purposes or are to be filed with any govern-  
21 mental agency; or

22 (e) Who, in general or as an incident to such work,  
23 renders professional assistance to the public for compen-  
24 sation in any or all matters relating to accounting pro-  
25 cedure and to the recording and presentation of financial  
26 facts or data.

27 Any person who is a resident of this state, or has a  
28 place of business therein, who has attained the age of  
29 twenty-one years, and who is of good moral character,  
30 and who holds himself out within this state to be in  
31 practice on the date of this article is enacted as a public

32 accountant as heretofore defined, may register with the  
33 board as a public accountant on or before January first,  
34 one thousand nine hundred sixty.

35 After the date this article is enacted and until January  
36 first, one thousand nine hundred sixty-seven, any person  
37 possessing the necessary qualifications for taking the ex-  
38 amination for a certificate of certified public accountant,  
39 as provided in section two, shall be registered by the  
40 board as a public accountant.

41 Any person who has been duly registered by the board  
42 as a public accountant shall be designated and known as  
43 a public accountant; and every person so registered and  
44 every copartnership of accountants in which all members  
45 practicing in this state have been so registered, may  
46 assume and use the title of public accountant or the abbre-  
47 viation thereof, "P. A."

Sec. 4. *Practice of Accountancy by Partnership.*—Any  
2 partnership practicing accountancy in this state may use  
3 the designation or practice as certified public accountants  
4 under a firm name only if all the members thereof who  
5 practice in this state are holders of certified public ac-

6 accountants' certificates granted under the laws of this state,  
7 and any partnership practicing accounting in this state  
8 may use the designation or practice as public accountants  
9 under a firm name only if all the members thereof who  
10 practice in this state are duly registered and qualified as  
11 public accountants under the provisions hereof.

Sec. 5. *Reciprocity.*—The board may, in its discretion,  
2 in lieu of the examination provided for in this chapter,  
3 issue a certificate of certified public accountant to any  
4 person who possesses the other qualifications stated in  
5 section two, and who is the holder of a certificate of  
6 certified public accountant issued under the laws of any  
7 state or territory, or the District of Columbia, which  
8 extends similar privileges to certified public accountants  
9 of this state provided the requirements for such certifi-  
10 cates in the state or territory or the District of Columbia,  
11 which has granted it to the applicant, are, in the opinion  
12 of the board, equivalent to those herein required; or who  
13 is the holder of a certificate of certified public accountant,  
14 or the equivalent thereof, granted under the authority  
15 of a foreign nation, provided the requirements for such

16 certificates are, in the opinion of the board, equivalent  
17 to those herein required.

Sec. 6. *Fees to Be Paid by Applicants.*—The board shall  
2 charge each applicant for a certificate or “certified public  
3 accountant” a fee of forty dollars for the examination  
4 provided for in this article, which fee shall be payable  
5 at the time of the application. In the case of the failure  
6 on the part of any applicant to attend the examination  
7 on the date specified by the board, or to pass a satisfactory  
8 examination, the applicant may appear at a subsequent  
9 examination for re-examination, within a period of one  
10 year from the date of the first examination without pay-  
11 ment of an additional fee. Subsequent re-examination  
12 may be taken upon the payment of a fee of twenty dollars  
13 for each re-examination. Upon the applicant receiving  
14 a satisfactory grade and having complied with all the  
15 other provisions of this article, the fee for the issuance  
16 of the certificate shall be five dollars.

17 The board shall charge each applicant for registration  
18 as a “public accountant” a fee of twenty-five dollars,  
19 payable at the time registration is made.

Sec. 7. *Registration Cards.*—The board shall, on July  
2 first of each year, issue a registration card to any holder  
3 of a certificate of “certified public accountant” issued  
4 under the laws of this state, or to any duly registered  
5 “public accountant”, which card shall be good until June  
6 thirtieth of the next succeeding year, charging therefor  
7 not more than ten dollars per year. Interim registration  
8 cards shall be issued to applicants who have complied  
9 with the provisions of this chapter. Failure to secure a  
10 registration card in any year shall not disqualify a person  
11 previously duly registered as a “public accountant” from  
12 securing a card in a future year, if such person decided  
13 to return to the public practice of accountancy; and shall  
14 not operate to revoke a certified public accountant cer-  
15 tificate once issued, but shall remove the holder thereof  
16 from those registered and authorized to practice during  
17 the year.

Sec. 8. *Statements Remain Property of Accountants.*—  
2 All working papers, schedules and memoranda made  
3 by a certified public accountant, or a public accountant, or  
4 by an employee or employees of a certified public ac-

5 countant, or public accountant, incident to or in the  
6 course of professional service to clients by such certified  
7 public accountant, or public accountant, except reports  
8 submitted by a certified public accountant, or public ac-  
9 countant, to a client shall be and remain the property  
10 of such certified public accountant, or public accountant,  
11 in the absence of a written agreement between the certi-  
12 fied public accountant, or public accountant, and the client,  
13 to the contrary.

Sec. 9. *Revocation or Suspension of Certificate or Regis-*  
2 *tration.*—After notice and hearing, as provided in article  
3 one of this chapter, the board may revoke or suspend  
4 any certificate issued under section two of this article,  
5 or any registration granted under section three of this  
6 article, and may refuse to issue, or refuse to renew any  
7 registration card issued under section seven of this article,  
8 for any one or combination of the following causes:

9 (a) Fraud or deceit in obtaining a certificate as cer-  
10 tified public accountant, or in obtaining registration under  
11 this article.

12 (b) Dishonesty, fraud or gross negligence in the prac-  
13 tice of public accounting.

14 (c) Violation of a rule of professional conduct promul-  
15 gated by the board under the authority granted by this  
16 article.

17 (d) Conviction of any felony, or any crime, an element  
18 of which is dishonesty or fraud, under the laws of any  
19 state or of the United States.

20 (e) Cancellation, revocation, suspension, or refusal to  
21 renew authority to practice as a certified public account-  
22 ant or a public accountant by any other state, for any  
23 cause other than failure to pay an annual registration  
24 fee in such other state.

25 (f) Habitual drunkenness, addiction to the use of habit-  
26 forming drugs, mental incompetence or gross immorality.

27 (g) Unlawful practice of law as defined by the supreme  
28 court of appeals and/or statutory law of this state.

Sec. 10. *Prohibitions and Penalties; Exceptions.*—Any  
2 person who shall hold himself out as having received the  
3 certificate provided for in this article, or who shall assume  
4 to practice as a certified public accountant, or use the

5 initials C. P. A. or C. A. or any similar title or abbrevia-  
6 tion tending to mislead the public or likely to be confused  
7 with certified public accountant or C. P. A., without hav-  
8 ing received the certificate and current registration card  
9 provided for in this article, shall be guilty of a misde-  
10 meanor, and, upon conviction thereof, shall be sentenced  
11 to pay a fine not exceeding five hundred dollars or im-  
12 prisoned not more than six months, or both, in the discre-  
13 tion of the court.

14 Any person who shall hold himself out or assume to  
15 practice as a public accountant, or uses the initials P. A.  
16 or any similar title or abbreviation tending to mislead  
17 the public or likely to be confused with public accountant  
18 or P. A., without having registered, and without having  
19 received a current registration card provided for in this  
20 article, shall be guilty of a misdemeanor, and, upon con-  
21 viction thereof, shall be sentenced to pay a fine not to  
22 exceed five hundred dollars or imprisoned not more  
23 than six months, or both, in the discretion of the court.  
24 *Provided, however,* That nothing contained in this chapter  
25 shall prohibit any person from engaging in any account-

26 any work for one or more persons so long as such person  
27 does not hold himself out to the public as a certified  
28 public accountant, public accountant, or accountant or  
29 auditor, offering his or her services to all those who may  
30 choose to apply: *Provided further*, That nothing con-  
31 tained in this chapter shall prevent the employment of  
32 uncertified persons or nonpublic accountants in subordi-  
33 nate capacities, by a certified public accountant, or public  
34 accountant, or by a firm or partnership, the members of  
35 which are all holders of certified public accountants' cer-  
36 tificates granted under the laws of this state or duly regis-  
37 tered public accountants. No person registered hereunder  
38 shall engage in the practice of law unless he has been  
39 duly licensed as an attorney under the laws of this state,  
40 and nothing contained herein shall be construed to au-  
41 thorize persons registered hereunder to practice law in  
42 any manner or form unless so licensed.

Sec. 11. *Injunction Against Unlawful Act; Evidence.*—

2 Whenever in the judgment of the board, or any other in-  
3 terested person, any person has engaged, or is about to en-  
4 gage in any acts or practices which constitute, or will con-

5 stitute, a violation of this article, the board, or such other  
6 interested person, may make application to the appropri-  
7 ate court for an order enjoining such acts or practices,  
8 and upon showing that such person has engaged, or is  
9 about to engage, in any such acts or practices, an injunc-  
10 tion, restraining order, or such other order as may be ap-  
11 propriate shall be granted by such court without bond.

12 The display or uttering by a person of a card, sign,  
13 advertisement or other printed, engraved or written in-  
14 strument or device, bearing a person's name in conjunc-  
15 tion with the words "certified public accountant" or any  
16 abbreviation thereof, or "public accountant" or any abbre-  
17 viation thereof, or any other title or abbreviation tending  
18 to mislead the public or likely to be confused with cer-  
19 tified public accountant or public accountant, shall be  
20 prima facie evidence in any action brought under this  
21 article that the person whose name is so displayed, caused  
22 or procured the display or uttering of such card, sign,  
23 advertisement or other printed, engraved or written in-  
24 strument or device, and that such person is holding him-  
25 self out to be a certified public accountant or a public

26 accountant holding a registration card under this article.

Sec. 12. *General Law Applicable.*—Except to the extent  
2 that the provisions of this article may be inconsistent  
3 therewith, the board shall conform to the requirements  
4 prescribed in article one of this chapter.

Sec. 13. *Construction.*—If any provision of this article  
2 or the application thereof to anyone or to any circum-  
3 stances is held invalid, the remainder of the article and  
4 the application of such provision to others or other cir-  
5 cumstances shall not be affected thereby.

Sec. 14. *Effective Date.*—This article shall take effect  
2 on July first, one thousand nine hundred fifty-nine.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*W. Gasper*  
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Chairman Senate Committee

*Eudora Andreeus*  
-----  
Chairman House Committee

Originated in the House of Delegates

Takes effect 90 days from passage.

*J. Homan Kuper*  
-----  
Clerk of the Senate

*V. A. Blankenship*  
-----  
Clerk of the House of Delegates

*Ralph Bean*  
-----  
President of the Senate

*H. R. Paulley*  
-----  
Speaker, House of Delegates

The within approved this the 5<sup>th</sup>

day of March, 1959.

*W. H. Underwood*  
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Governor

