Accounting industry counts on its clout

By Sam Roe
Tribune staff reporter

Fifteen years ago, when the financial world was rocked by the savings and loan scandal, the accounting industry faced a crisis not unlike the one it faces today.

Lawsuits were mounting, millions of dollars were paid out in settlements and the image of accountants was plummeting.

The nation's largest accounting firms, including Chicago-based Andersen, decided to fight back.

They formed a lobbying coalition. They poured millions of dollars into political campaigns. They gained more seats on state regulatory boards. They increasingly supplemented the salaries of business professors, in some cases having input on whom was hired in those positions.

While these are not uncommon moves for large corporations, the effort was so intense that it dramatically transformed the accounting profession and, critics say, helped set the stage for the ethical lapses that contributed to the Enron Corp. scandal.

The industry's actions clearly left their mark on the nation's

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laws, regulatory bodies and college campuses.

For example, the top accounting firms successfully lobbied for a federal law that makes it more difficult for investors to sue them. The 1995 law was a major victory for the profession and was achieved only after Congress voted to override President Bill Clinton's first veto.

In 2000, vigorous lobbying helped kill many of the proposals made by Arthur Levitt, then the chairman of the Securities and Exchange Commission, to limit potential conflicts of interest in the accounting industry.

"It was the most incredible, intense campaign you ever did see," recalled Lynn Turner, former SEC chief accountant.

Turner said that at times he spent hours a day dealing with lobbyists or fielding questions from members of Congress whom lobbyists had contacted.

Now Congress is investigating the Enron scandal, and the accounting industry is scrambling, much like it did in the 1980s, to limit the damage to its business and reputation.

The Big Five accounting firms—Ernst & Young, Deloitte & Touche, PricewaterhouseCoopers, KPMG and Andersen—have announced significant changes in policy. Andersen, auditor of Enron, has created an oversight board to help it reform its practices.

Andersen has come under fire for having close ties with the troubled Houston-based company and for destroying Enron-related documents sought by federal investigators. The firm has repeatedly said that it did not cause Enron to fail and that the energy giant had withheld information.

While Andersen has placed full-page ads in various publications explaining its position, lobbying by the Big Five has been subdued in recent weeks, congressional staffers report.

"I suspect it's because the heat is on," said Lisa B. Cohen, spokeswoman for Rep. Diana DeGette (D-Colo.), who sits on the House Energy and Commerce Committee.

The panel has been investigating Andersen's role in the Enron scandal and is one of several congressional committees looking into the situation.

Critics say the industry's lobbying and other actions over the years have created a professional culture in which self-preservation and profit often are put before independence and integrity.

They note that Big Five contributions to political parties and federal candidates are double compared to 10 years ago. While corporate donations are up in general, the Center for Responsive Politics, a non-partisan watchdog group, reports that contributions from the five major accounting firms have risen more dramatically.

More Big Five accountants are being appointed to state boards of accountancy, the little-known but powerful regulatory bodies that can revoke licenses and fine their firms.

Moreover, accounting firms have created dozens of professorships at universities across the country. Supporters say the professorships help colleges attract big-name teachers, while opponents contend there is a potential for conflict of interest.

Many of these actions have roots in the 1980s, when some major accounting firms were enmeshed in the savings and loan crisis. For their role in the banking scandal, the firms were forced to pay more than $1 billion in damages.

"You had hundreds of millions of dollars in claims—not just one, but dozens of these babies. Each one was potentially ruinous to a Big Five accounting firm," said Dan Goldwasser, a New York lawyer who advises and defends accounting firms.

Goldwasser said the big firms realized they had to move quickly to protect themselves from lawsuits or risk financial ruin. If they did nothing, he said, "there wouldn't be an accounting profession."

Jack Henry, a retired managing partner in Andersen's Phoenix office, said that during the S&L crisis, there was a major change in the industry, caused largely by mounting litigation.

Accounting firms organize

"We were tired of getting the crap kicked out of us," Henry said.

Accountants, he said, generally had not been politically active, but they quickly organized.

The largest firms formed a lobbying group, the Accountants Coalition, and successfully pushed for a law that made it more difficult for investors to sue.

Legal expert James Cox said the measure would never have passed without intense lobbying by the accounting industry and some high-tech firms.

"Why would Congress get mobilized around class actions related to the securities industry but for the fact of these lobbying interests?" asked Cox, a professor of corporate law and securities regulation at Duke University.

Some say the law helped create a culture that might have contributed to the Enron-Andersen scandal.

"The chances of getting sued pre- and post-1995 tort reform act were significantly changed," Turner said.

Playing a role in getting the measure passed was Harvey Pitt, the current SEC chairman. Before being appointed to the federal oversight agency, he was a top lawyer for the Big Five accounting firms, including Andersen.

Pitt has been criticized heavily in recent weeks for his pre-Enron scandal comments suggesting a gentler SEC approach to accounting issues. His proposals to reform the profession also have been attacked as being too favorable to accountants.

Lobbying by accountants perhaps reached its apex in 2000 when it helped defeat some SEC proposals to restrict consulting services provided by accounting firms. Andersen has been criticized for auditing Enron while also receiving large consulting fees from the firm.

The Big Five's lobbying expenditures in 2000 were $9 million, up more than $3 million from the previous year, according to the Center for Responsive Politics.

Big Five campaign contributions also are up significantly. Since 1989, the firms have given $30 million to candidates for federal offices and political parties in soft money as well as in employee and political action committee contributions, the center reports.

Of that donation figure, $5 million was from Andersen, which has given to Democrats and Republicans.

The House member who has received the most from Andersen—$57,000—is Rep. Billy Tauzin, the Louisiana Republican who helped craft the 1995 securities tort reform measure.

Now Tauzin is grilling Andersen and Enron as chairman of the House Energy and Commerce Committee. He has said he will not recuse himself from the inquiry.

The Big Five also was a major contributor to the Bush presidential campaign. Andersen gave $146,000 through its employees and PAC—the fifth-largest contributor of all companies, according to the Center for Responsive Politics.

Each of the Big Five accounting firms was among the top 20 contributors.

At the state level, the large accounting firms are potentially gaining influence by securing seats on boards of accountancy.

In general, governors appoint the board members. Though it could not point to statistics, the National Association of State Boards of Accountancy reports that more Big Five members are being appointed.

Dennis Spackman, a former association chairman, said he thinks the Big Five is trying to get as many seats as possible to protect its interests. He said he fears that Big Five board members might deflect complaints against their firms, "and that's a risk that should never take place."

Bill Baker, president of the Arizona board, said he thinks the Big Five is trying to influence the panel in his state. Three of the five members who are certified public accountants hail from top five firms, he said, compared with one a few years ago.

Those members, Baker said, already have pushed for limits on restitution the board could seek from accounting firms involved in fraud cases.

In 2000, the previous board announced it would seek hundreds of millions of dollars from Andersen for its role in the collapse of the Baptist Foundation of Arizona, which defrauded thousands of small-time investors.

Baker also said he is upset that Henry, the retired Andersen managing partner, lobbied Arizona's governor to appoint one of the Big Five members to the state board.

Gov. Jane Hull appointed an Ernst & Young accountant last summer even though the Arizona Society of CPAs recommended a man from a smaller firm.

Henry, a friend of the governor's and former head of the Arizona Chamber of Commerce, said he had talked with Hull about the opening, recommending the Big Five accountant because he was the best person for the position.

A spokeswoman for the governor said she always makes her own decisions on appointments, "and that's what happened in this case."

The issue of potential bias also has been raised regarding accounting firms providing money to dozens of professors and researchers.

Millions go to professorships

There has been a marked increase in accounting firms creating professorships in the past 20 years.

Foundations for Andersen, KPMG and Deloitte all report funding about 40 professorships each. KPMG said it provided each professor with about $10,000 to $30,000 annually.

The accounting firms said professorships strengthen business schools, which then produce better graduates for the hiring pool.

But critics question whether professors should accept money from accounting firms that they may be called upon to criticize or study.

"You are not going to have the autonomy or the independence that you should have as an academic if that company is funding you," said Marianne Jennings, professor of legal and ethical studies in business at Arizona State University.

Others disagree. Zoe-Vonna Palmrose is the PricewaterhouseCoopers Professor of Auditing at the University of Southern California. Part of her salary comes from the firm, and she also has received research grants from the Accountants Coalition lobbying group and KPMG.

Palmrose said the money has not compromised her objectivity and that when writing research papers, she fully discloses her affiliations. "I have been very hard on them on some issues and let the evidence speak for itself."

Bernie Milano, president of the KPMG Foundation, which has provided millions of dollars in research grants, said he does not think professors skew findings to please sponsors.

"If [the research] isn't credible, their reputation is shot, and that's the last thing these people want to see happen," he said.

Northwestern University, home of the Kellogg Graduate School of Management, has had a long relationship with the Andersen accounting firm. Arthur Andersen, the firm's founder, once headed the school's accounting department, and the Andersen family helped fund Andersen Hall, which primarily houses the graduate program.

Andersen also has an endowed chair at Northwestern, a position held by accounting professor Ronald Dye, who says he receives no salary supplement but rather research money from a broader pool of university and donor funds.

Howard Engle, chairman of the Andersen Foundation, said he does not see a problem in giving money to business professors, noting the firm generally has no say in who is selected.

Mark Chain, president of the Deloitte Foundation, said company representatives have had input in choosing professors for their chairs. He said when Deloitte provides money to universities, it does not expect favors in return.