

By: Parker

H.B. No. 4131

A BILL TO BE ENTITLED

AN ACT

relating to the self-directed and semi-independent status of the State Securities Board; authorizing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 472.001, Government Code, is amended to read as follows:

Sec. 472.001. APPLICABILITY OF CHAPTER. This chapter applies to:

- (1) the Texas State Board of Public Accountancy;
- (2) the Texas Board of Professional Engineers; ~~and~~
- (3) the Texas Board of Architectural Examiners; and
- (4) the State Securities Board.

SECTION 2. The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes) is amended by adding Sections 44, 45, 46, and 47 to read as follows:

Sec. 44. SELF-DIRECTED AND SEMI-INDEPENDENT STATUS. The State Securities Board has self-directed and semi-independent status as provided under Chapter 472, Government Code.

Sec. 45. REPORT TO BOARD. Periodically, the Commissioner shall submit to the members of the Board, as directed by the Board members, a report of the receipts and expenditures of the agency.

Sec. 46. REFUND OF REGISTRATION FEE. If the Commissioner or Board determines that all or part of a registration fee should be refunded, the refund shall be made by warrant on the state treasury

1 from the fund into which the registration fee was deposited.

2 Sec. 47. REPRESENTATION BY ATTORNEY GENERAL. The attorney
3 general may assess and collect from the Commissioner or the Board
4 reasonable attorney's fees associated with any legal
5 representation requested by the Commissioner and provided by the
6 attorney general. Notwithstanding any other law, a requirement
7 that the attorney general represent an agency in any litigation
8 does not apply to a proceeding under this Act that is governed by
9 Chapter 2001, Government Code.

10 SECTION 3. Subsections D, G, and K, Section 2, The
11 Securities Act (Article 581-2, Vernon's Texas Civil Statutes), are
12 amended to read as follows:

13 D. Each member of the Board is entitled to reimbursement for
14 travel expenses incurred [~~per diem as set by legislative~~
15 ~~appropriation~~] for each day that the member engages in the business
16 of the Board.

17 The Governor shall designate a member of the Board as the
18 presiding officer of the Board to serve in that capacity at the will
19 of the Governor. A majority of the members shall constitute a
20 quorum for the transaction of any business.

21 G. The Board shall appoint a Securities Commissioner who
22 serves at the pleasure of the Board and who shall, under the
23 supervision of the Board, administer the provisions of this Act.
24 The Board shall determine the Commissioner's salary. Each member
25 of the Board shall have access to all offices and records under his
26 supervision, and the Board, or a majority thereof, may exercise any
27 power or perform any act authorized to the [~~Securities~~]

1 Commissioner by the provisions of this Act.

2 K. The Commissioner shall determine the number of Board
3 employees and the employees' salaries. The Commissioner or his
4 designee shall develop an intraagency career ladder program, one
5 part of which shall be the intraagency posting of all nonentry level
6 positions for at least ten (10) days before any public posting. The
7 Commissioner or his designee shall develop a system of annual
8 performance evaluations based on measurable job tasks. All merit
9 pay for Board employees must be based on the system established
10 under this section.

11 SECTION 4. Subsection C, Section 2-3, The Securities Act
12 (Article 581-2-3, Vernon's Texas Civil Statutes), is amended to
13 read as follows:

14 C. A person appointed to the Board is entitled to
15 reimbursement [~~, as provided by the General Appropriations Act,~~] for
16 the travel expenses incurred in attending the training program
17 regardless of whether the attendance at the program occurs before
18 or after the person qualifies for office.

19 SECTION 5. Subsections A and D, Section 35, The Securities
20 Act (Article 581-35, Vernon's Texas Civil Statutes), are amended to
21 read as follows:

22 A. The Board shall establish the following fees to produce
23 [~~in amounts so that the aggregate amount that exceeds the amount of~~
24 ~~the fees on September 1, 2002, produces]~~ sufficient revenue to
25 cover the costs of administering and enforcing this Act:

26 (1) for the filing of any original, amended, or
27 renewal application to sell or dispose of securities [~~, an amount~~

1 ~~not to exceed \$100];~~

2 (2) for the filing of any original application of a
3 dealer or investment adviser or for the submission of a notice
4 filing for a federal covered investment adviser [~~, an amount not to~~
5 ~~exceed \$100];~~

6 (3) for the filing of any renewal application of a
7 dealer or investment adviser or for the submission of a renewal
8 notice filing for a federal covered investment adviser [~~, an amount~~
9 ~~not to exceed \$100];~~

10 (4) for the filing of any original application for
11 each agent, officer, or investment adviser representative or for
12 the submission of a notice filing for each representative of a
13 federal covered investment adviser [~~, an amount not to exceed \$100];~~
14 and

15 (5) for the filing of any renewal application for each
16 agent, officer, or investment adviser representative or for the
17 submission of a renewal notice filing for each representative of a
18 federal covered investment adviser [~~, an amount not to exceed \$100].~~

19 D. A cost incurred by the Board in administering or
20 enforcing this Act may be paid only from a fee collected under
21 Subsection A of this section.

22 SECTION 6. The following provisions of The Securities Act
23 (Article 581-1 et seq., Vernon's Texas Civil Statutes) are
24 repealed:

25 (1) Subsections J, M, and N, Section 2;

26 (2) Subsection C, Section 35; and

27 (3) Section 36.

1 SECTION 7. Subject to Chapter 472, Government Code, the
2 appropriations made by an Act of the 87th Legislature, Regular
3 Session, 2021, may be spent by the State Securities Board as the
4 Securities Commissioner directs. The board shall repay to the
5 general revenue fund the appropriation made to the agency for the
6 state fiscal year ending August 31, 2022, not later than that date
7 and as funds become available. The board shall repay to the general
8 revenue fund the appropriation made to the board for the state
9 fiscal year ending August 31, 2023, not later than that date and as
10 funds become available.

11 SECTION 8. The transfer of the State Securities Board to
12 self-directed and semi-independent status under this Act, and the
13 expiration of self-directed and semi-independent status may not act
14 to cancel, suspend, or prevent:

- 15 (1) any debt owed to or by the State Securities Board;
16 (2) any fine, tax, penalty, or obligation of any
17 party;
18 (3) any contract or other obligation of any party; or
19 (4) any action taken by the State Securities Board,
20 the Securities Commissioner, or the board's employees in the
21 administration or enforcement of the agency's duties.

22 SECTION 9. The State Securities Board shall continue to
23 have and exercise the powers and duties allocated to the board in
24 the board's enabling legislation, except as specifically amended by
25 this Act.

26 SECTION 10. Title to or ownership of all supplies,
27 materials, records, equipment, books, papers, and furniture used by

1 the State Securities Board is transferred to the State Securities
2 Board in fee simple. This Act does not affect any property owned by
3 the State Securities Board on or before the effective date of this
4 Act.

5 SECTION 11. Beginning September 1, 2021, the State
6 Securities Board shall pay rent to this state in a reasonable amount
7 to be determined by the Texas Facilities Commission for its use and
8 occupancy of state-owned office space.

9 SECTION 12. This Act takes effect September 1, 2021.