

By: Parker

H.B. No. 823

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 45, 46, 47, and 48 to read as follows:

Sec. 45. 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. 46. 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. 47. REFUND OF CERTAIN REGISTRATION FEES. If the Commissioner or Board determines that all or part of a registration fee deposited to the general revenue fund should be refunded, the

1 refund shall be paid from the general revenue fund.

2 Sec. 48. 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 that
7 the attorney general represent an agency in any litigation does not
8 apply to a proceeding under this Act that is governed by Chapter
9 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 quorum
20 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 of
25 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]~~

Commissioner by the provisions of this Act.

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

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

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

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

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

(1) for the filing of any original, amended, or 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 B. Notwithstanding Section 472.110, Government Code, the
20 ~~[The]~~ Commissioner or Board shall charge and collect the following
21 fees and shall deposit daily ~~[pay]~~ all fees received to ~~[into]~~ the
22 general revenue fund ~~[State Treasury]~~:

23 (1) for any filing to amend the registration
24 certificate of a dealer or investment adviser or evidence of
25 registration of an agent or investment adviser representative,
26 issue a duplicate certificate or evidence of registration, or
27 register a branch office, \$25;

1 (2) for the examination of any original or amended
2 application filed under Subsection A, B, or C of Section 7 of this
3 Act, regardless of whether the application is denied, abandoned,
4 withdrawn, or approved, a fee of one-tenth (1/10) of one percent
5 (1%) of the aggregate amount of securities described and proposed
6 to be sold to persons located within this state based upon the price
7 at which such securities are to be offered to the public;

8 (3) for certified copies of any papers filed in the
9 office of the Commissioner, the Commissioner shall charge such fees
10 as are reasonably related to costs; however, in no event shall such
11 fees be more than those which the Secretary of State is authorized
12 to charge in similar cases;

13 (4) for the filing of any application for approval of a
14 stock exchange so that securities fully listed thereon will be
15 exempt, a fee of \$10,000;

16 (5) for the filing of a request to take the Texas
17 Securities Law Examination, \$35;

18 (6) for the filing of an initial notice required by the
19 Commissioner to claim a secondary trading exemption, a fee of \$500,
20 and for the filing of a secondary trading exemption renewal notice,
21 a fee of \$500;

22 (7) for the filing of an initial notice required by the
23 Commissioner to claim a limited offering exemption, a fee of
24 one-tenth (1/10) of one percent (1%) of the aggregate amount of
25 securities described as being offered for sale, but in no case more
26 than \$500; and

27 (8) for an interpretation by the Board's general

1 counsel of this Act or a rule adopted under this Act, a fee of \$100,
2 except that an officer or employee of a governmental entity and the
3 entity that the officer or employee represents are exempt from the
4 fee under this subsection when the officer or employee is
5 conducting official business of the entity.

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

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

- 12 (1) Subsections J, M, and N, Section 2;
- 13 (2) Subsection C, Section 35; and
- 14 (3) Section 36.

15 SECTION 7. Subject to Chapter 472, Government Code, the
16 appropriations made by an Act of the 85th Legislature, Regular
17 Session, 2017, may be spent by the State Securities Board as the
18 Securities Commissioner directs. The board shall repay to the
19 general revenue fund the appropriation made to the agency for the
20 state fiscal year ending August 31, 2018, not later than that date
21 and as funds become available. The board shall repay to the general
22 revenue fund the appropriation made to the board for the state
23 fiscal year ending August 31, 2019, not later than that date and as
24 funds become available.

25 SECTION 8. The transfer of the State Securities Board to
26 self-directed and semi-independent status under this Act, and the
27 expiration of self-directed and semi-independent status may not act

1 to cancel, suspend, or prevent:

- 2 (1) any debt owed to or by the State Securities Board;
- 3 (2) any fine, tax, penalty, or obligation of any
- 4 party;
- 5 (3) any contract or other obligation of any party; or
- 6 (4) any action taken by the State Securities Board,
- 7 the Securities Commissioner, or the board's employees in the
- 8 administration or enforcement of the agency's duties.

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

13 SECTION 10. Title to or ownership of all supplies,
14 materials, records, equipment, books, papers, and furniture used by
15 the State Securities Board is transferred to the State Securities
16 Board in fee simple. This Act does not affect any property owned by
17 the State Securities Board on or before the effective date of this
18 Act.

19 SECTION 11. Beginning September 1, 2017, the State
20 Securities Board shall pay rent to this state in a reasonable amount
21 to be determined by the Texas Facilities Commission for its use and
22 occupancy of state-owned office space.

23 SECTION 12. This Act takes effect September 1, 2017.