

BILL ANALYSIS

C.S.H.B. 4131
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Pensions, Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been noted that the State Securities Board (SSB) has been unable to obtain adequate levels of funding necessary to maintain an appropriate salary structure and career ladder for its financial examiners and attorneys. In addition to losing personnel to private industry, the federal Securities and Exchange Commission (SEC) frequently recruits among board staff. The SSB needs the ability to set salaries in order to retain veteran staff and remain a well-functioning agency. C.S.H.B. 4131 seeks to address this issue by granting the SSB self-directed and semi-independent agency status, thus making the board responsible for covering its own operational costs through fees and other revenue and not subject to the regular legislative appropriations process.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 4131 amends the Government Code to grant the State Securities Board (SSB) self-directed and semi-independent agency status as provided under applicable state law. With respect to the administration and operation of the SSB, the bill does the following:

- removes the entitlement of an SSB member to a per diem set by legislative appropriation and entitles a member instead to reimbursement for travel expenses incurred for each day the member engages in SSB business;
- removes a specification that the amount of reimbursement for an SSB member for travel expenses incurred in attending member training is set by the General Appropriations Act;
- requires the SSB to determine the securities commissioner's salary;
- requires the commissioner to determine the number of SSB employees and their salaries;
- requires the commissioner periodically to submit to SSB members at their direction a report of the SSB's receipts and expenditures;
- removes certain specifications regarding, and caps on, certain registration and notice filing fees;
- provides that those fees are the exclusive source of covering the costs incurred by the SSB in enforcing The Securities Act;
- repeals the requirement for the money received from assessments, charges, and fees under the act to be deposited to the credit of the general revenue fund;

- requires the refund of all or part of a registration fee to be made by warrant on the state treasury from the fund to which the fee was deposited;
- repeals the requirement for the SSB to submit a certain annual report to the governor and the presiding officer of each house of the legislature;
- authorizes the attorney general to assess and collect from the commissioner or the SSB reasonable attorney's fees associated with any legal representation requested by the commissioner and provided by the attorney general;
- establishes that a requirement that the attorney general represent an agency in any litigation does not apply to a proceeding under The Securities Act that is governed by the Administrative Procedure Act;
- repeals the provision subjecting the commissioner and the SSB to state open meetings law, the Administrative Procedure Act, and statutory provision governing the Texas Register and the Administrative Code; and
- requires the SSB to pay rent to the state beginning January 1, 2022, in a reasonable amount to be determined by the Texas Facilities Commission for its use and occupancy of state-owned office space.

C.S.H.B. 4131 authorizes the appropriations made to the SSB by an act of the 87th Texas Legislature, Regular Session, 2021, to be spent by the SSB as the commissioner directs. The SSB must repay to the general revenue fund the appropriation made to the SSB for the 2022 and 2023 state fiscal years not later than the last day of each respective fiscal year and as the applicable funds become available.

C.S.H.B. 4131 provides that the transfer of the SSB to self-directed and semi-independent status and the expiration of self-directed and semi-independent status may not act to cancel, suspend, or prevent any of the following:

- any debt owed to or by the SSB;
- any fine, tax, penalty, or obligation of any party;
- any contract or other obligation of any party; or
- any action taken by the SSB, the commissioner, or SSB employees in the administration or enforcement of SSB duties.

C.S.H.B. 4131 provides that the SSB continues to have and exercise the powers and duties allocated to the SSB in its enabling legislation, except as specifically amended by the bill. The bill transfers title to or ownership of all supplies, materials, records, equipment, books, papers, and furniture used by the SSB to the SSB in fee simple. This bill expressly does not affect any property owned by the SSB on or before the bill's effective date.

C.S.H.B. 4131 repeals the following provisions of the Government Code, as effective January 1, 2022:

- Section 4002.001;
- Section 4002.155;
- Section 4002.163;
- Section 4006.101; and
- Section 4006.251.

EFFECTIVE DATE

January 1, 2022.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4131 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute changes the bill's effective date from September 1, 2022, as in the original, to January 1, 2022. Accordingly, rather than amending The Securities Act as it currently exists in Vernon's Texas Civil Statutes, as does the original, the substitute amends the Government Code, as effective January 1, 2022, when the act becomes codified.