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 from the fund into which the registration fee was deposited.

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

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

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

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

G.  The Board shall appoint a Securities Commissioner who serves at the pleasure of the Board and who shall, under the supervision of the Board, administer the provisions of this Act. The Board shall determine the Commissioner's salary. Each member of the Board shall have access to all offices and records under his supervision, and the Board, or a majority thereof, may exercise any 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 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 not to exceed $100~~];

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

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

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

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

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

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

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

(2)  Subsection C, Section 35; and

(3)  Section 36.

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

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

(1)  any debt owed to or by the State Securities Board;

(2)  any fine, tax, penalty, or obligation of any party;

(3)  any contract or other obligation of any party; or

(4)  any action taken by the State Securities Board, the Securities Commissioner, or the board's employees in the administration or enforcement of the agency's duties.

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

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

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

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