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H.B. No. 4131

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

9 (1) the Texas State Board of Public Accountancy;

10 (2) the Texas Board of Professional Engineers and Land
11 Surveyors; ~~and~~

12 (3) the Texas Board of Architectural Examiners; and

13 (4) the State Securities Board.

14 SECTION 2. Subchapter A, Chapter 4002, Government Code, as
15 effective January 1, 2022, is amended by adding Section 4002.003 to
16 read as follows:

17 Sec. 4002.003. SELF-DIRECTED AND SEMI-INDEPENDENT STATUS.

18 The State Securities Board has self-directed and semi-independent
19 status as provided under Chapter 472.

20 SECTION 3. Section 4002.057, Government Code, as effective
21 January 1, 2022, is amended to read as follows:

22 Sec. 4002.057. PER DIEM. A member of the board is entitled
23 to reimbursement for travel expenses incurred ~~[a per diem as set by~~
24 ~~legislative appropriation]~~ for each day the member engages in the

1 business of the board.

2 SECTION 4. Section 4002.058(c), Government Code, as
3 effective January 1, 2022, is amended to read as follows:

4 (c) A person appointed to the board is entitled to
5 reimbursement [~~, as provided by the General Appropriations Act,~~] for
6 travel expenses incurred in attending the training program
7 regardless of whether the attendance at the program occurs before
8 or after the person qualifies for office.

9 SECTION 5. Section 4002.101, Government Code, as effective
10 January 1, 2022, is amended to read as follows:

11 Sec. 4002.101. SECURITIES COMMISSIONER. (a) The board
12 shall appoint a securities commissioner who serves at the pleasure
13 of the board and who, under the board's supervision, shall
14 administer this title.

15 (b) The board shall determine the commissioner's salary.

16 SECTION 6. Subchapter C, Chapter 4002, Government Code, as
17 effective January 1, 2022, is amended by adding Section 4002.1045
18 to read as follows:

19 Sec. 4002.1045. BOARD EMPLOYEES. The commissioner shall
20 determine the number of board employees and the employees'
21 salaries.

22 SECTION 7. Subchapter D, Chapter 4002, Government Code, as
23 effective January 1, 2022, is amended by adding Section 4002.164 to
24 read as follows:

25 Sec. 4002.164. REPORT TO BOARD. Periodically, the
26 commissioner shall submit to the members of the board, as directed
27 by the board members, a report of the receipts and expenditures of

1 the agency.

2 SECTION 8. Section 4006.001, Government Code, as effective
3 January 1, 2022, is amended to read as follows:

4 Sec. 4006.001. CERTAIN REGISTRATION AND NOTICE FILING FEES.
5 The board shall establish the following fees to produce [~~in amounts~~
6 ~~so that the aggregate amount that exceeds the amount of the fees on~~
7 ~~September 1, 2002, produces~~] sufficient revenue to cover the costs
8 of administering and enforcing this title:

9 (1) for filing an original, amended, or renewal
10 application or registration statement to sell or dispose of
11 securities [~~, an amount not to exceed \$100~~];

12 (2) for filing an original application of a dealer or
13 investment adviser or submitting a notice filing for a federal
14 covered investment adviser [~~, an amount not to exceed \$100~~];

15 (3) for filing a renewal application of a dealer or
16 investment adviser or submitting a renewal notice filing for a
17 federal covered investment adviser [~~, an amount not to exceed \$100~~];

18 (4) for filing an original application for each agent,
19 officer, or investment adviser representative or submitting a
20 notice filing for each representative of a federal covered
21 investment adviser [~~, an amount not to exceed \$100~~]; and

22 (5) for filing a renewal application for each agent,
23 officer, or investment adviser representative or submitting a
24 renewal notice filing for each representative of a federal covered
25 investment adviser [~~, an amount not to exceed \$100~~].

26 SECTION 9. Section 4006.103, Government Code, as effective
27 January 1, 2022, is amended to read as follows:

1 Sec. 4006.103. PAYMENT OF CERTAIN COSTS. A cost incurred by
2 the board in administering or enforcing this title may be paid only
3 from a fee collected under Section [4006.001](#).

4 SECTION 10. Section [4006.104](#), Government Code, as effective
5 January 1, 2022, is amended to read as follows:

6 Sec. 4006.104. REFUND OF REGISTRATION FEE. If the
7 commissioner or board determines that all or part of a registration
8 fee should be refunded, the [~~commissioner may make the~~] refund
9 shall be made by warrant on the state treasury from the fund into
10 which the registration fee was deposited [~~money appropriated from~~
11 ~~the general revenue fund for that purpose~~].

12 SECTION 11. Subchapter [A](#), Chapter [4007](#), Government Code, as
13 effective January 1, 2022, is amended by adding Section 4007.003 to
14 read as follows:

15 Sec. 4007.003. REPRESENTATION BY ATTORNEY GENERAL. (a)
16 The attorney general may assess and collect from the commissioner
17 or the board reasonable attorney's fees associated with any legal
18 representation requested by the commissioner and provided by the
19 attorney general.

20 (b) Notwithstanding any other law, a requirement that the
21 attorney general represent an agency in any litigation does not
22 apply to a proceeding under this title that is governed by Chapter
23 [2001](#).

24 SECTION 12. Effective January 1, 2022, the following
25 provisions of the Government Code, as effective January 1, 2022,
26 are repealed:

- 27 (1) Section [4002.001](#);

- 1 (2) Section 4002.155;
- 2 (3) Section 4002.163;
- 3 (4) Section 4006.101; and
- 4 (5) Section 4006.251.

5 SECTION 13. Subject to Chapter 472, Government Code, the
6 appropriations made to the State Securities Board by an Act of the
7 87th Legislature, Regular Session, 2021, may be spent by the State
8 Securities Board as the securities commissioner directs. The board
9 shall repay to the general revenue fund the appropriation made to
10 the agency for the state fiscal year ending August 31, 2022, not
11 later than that date and as funds become available. The board shall
12 repay to the general revenue fund the appropriation made to the
13 board for the state fiscal year ending August 31, 2023, not later
14 than that date and as funds become available.

15 SECTION 14. The transfer of the State Securities Board to
16 self-directed and semi-independent status under this Act and the
17 expiration of self-directed and semi-independent status may not act
18 to cancel, suspend, or prevent:

- 19 (1) any debt owed to or by the State Securities Board;
- 20 (2) any fine, tax, penalty, or obligation of any
21 party;
- 22 (3) any contract or other obligation of any party; or
- 23 (4) any action taken by the State Securities Board,
24 the securities commissioner, or the board's employees in the
25 administration or enforcement of the agency's duties.

26 SECTION 15. The State Securities Board shall continue to
27 have and exercise the powers and duties allocated to the board in

1 the board's enabling legislation, except as specifically amended by
2 this Act.

3 SECTION 16. Title to or ownership of all supplies,
4 materials, records, equipment, books, papers, and furniture used by
5 the State Securities Board is transferred to the State Securities
6 Board in fee simple. This Act does not affect any property owned by
7 the State Securities Board on or before the effective date of this
8 Act.

9 SECTION 17. Beginning January 1, 2022, the State Securities
10 Board shall pay rent to this state in a reasonable amount to be
11 determined by the Texas Facilities Commission for its use and
12 occupancy of state-owned office space.

13 SECTION 18. This Act takes effect January 1, 2022.