

BILL ANALYSIS

C.S.H.B. 2493
By: Parker
Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to interested parties, the State Securities Board 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, resulting in several job vacancies that the agency has not been able to fill. The parties assert that the agency is competing for such professionals against both private industry and other regulators that have an effective means to retain such professionals. C.S.H.B. 2493 seeks to address this issue by making the State Securities Board a self-directed, semi-independent agency with some measure of budgetary autonomy and flexibility.

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. 2493 amends The Securities Act, Vernon's Texas Civil Statutes, to make the State Securities Board self-directed and semi-independent as specified by that act. The bill conditions the securities commissioner's implementation of any act of the 84th Legislature relating to the Board that is inconsistent with the agency being self-directed and semi-independent on authorization by the members of the Board. The bill subjects the State Securities Board to statutory provisions applicable to state agencies, including state purchasing requirements, interagency transfer voucher requirements, travel requirements, and prompt payment requirements, except as otherwise expressly provided.

C.S.H.B. 2493 requires the commissioner to submit an annual budget to the members of the Board using generally accepted accounting principles and requires the budget to be adopted and approved only by the members of the Board. The bill establishes that the State Securities Board is responsible for all direct and indirect costs of the agency's existence and operation and prohibits the agency from directly or indirectly causing the general revenue fund to incur any cost. The bill authorizes the Board, subject to any express statutory limitations, to set the amounts of the respective fees, penalties, charges, and revenues required or permitted by statute or rule as necessary to carry out the agency's functions and to fund its annual budget and removes caps on certain fees required to be established by the Board. The bill requires the commissioner to submit periodically to the members of the Board, as directed by the Board members, a report of the agency's receipts and expenditures and establishes that the agency's fiscal year begins on September 1 and ends on August 31.

C.S.H.B. 2493 requires all fees collected by and any funds appropriated to the agency to be deposited in interest-bearing deposit accounts in the Texas Treasury Safekeeping Trust Company to be used exclusively to pay costs incurred in the administration of The Securities Act and requires all other money collected by the commissioner or the Board and any other funds belonging to or under the control of the Board to be deposited into the general revenue fund. The bill requires the comptroller of public accounts to contract with the agency for the maintenance of the interest-bearing deposit accounts under terms comparable to a contract between a commercial banking institution and the institution's customers and prohibits the agency from holding funds in an account that is not under the comptroller's control. The bill requires a refund, if the commissioner or Board determines that all or part of a registration fee should be refunded, to be made by warrant on the state treasury from the fund into which the registration fee was deposited. The bill requires the agency to use the comptroller's uniform statewide accounting system to make all payments except direct payments from the agency's account to the Texas Treasury Safekeeping Trust Company.

C.S.H.B. 2493 requires the commissioner to keep financial and statistical information as necessary to disclose completely and accurately the financial condition and operations of the agency. The bill requires the commissioner, before the beginning of each regular session of the legislature, to submit to the legislature and governor a report describing all agency activities in the previous biennium and sets out the required report elements. The bill requires the commissioner, not later than November 1 of each year, to submit to the governor, the committee of each house of the legislature with jurisdiction over appropriations, and the Legislative Budget Board a report containing specified information regarding Board employee salaries and per diem and travel expenses of Board employees and Board members, operational planning and budget data, and a detailed account of agency expenditures and revenues in the preceding 12 months.

C.S.H.B. 2493 authorizes the commissioner, in order to carry out and promote the objectives of The Securities Act, to enter into contracts and do all other acts incidental to those contracts that are necessary for the administration of the agency's affairs and attainment of its purposes. The bill prohibits any agency indebtedness, liability, or obligation incurred in contracting from creating a debt or other liability of this state or another entity other than the agency or from creating any personal liability on the part of Board members or Board employees.

C.S.H.B. 2493 authorizes the commissioner, on behalf of the agency, to acquire by purchase, lease, gift, or any other manner provided by law and to maintain, use, and operate any real, personal, or mixed property, or any interest in property, necessary or convenient to the exercise of the agency's powers, rights, privileges, or functions and to sell or otherwise dispose of any such property or property interest that the commissioner determines is not necessary or convenient to the exercise of those powers, rights, privileges, or functions. The bill authorizes the agency to construct, extend, improve, maintain, and reconstruct, or cause to construct, extend, improve, maintain, and reconstruct, and use and operate all facilities necessary or convenient to the exercise of its powers, rights, privileges, or functions. The bill authorizes the agency to borrow money, as may be authorized from time to time by an affirmative vote of a three-fifths majority of the Board, for a maximum period of five years if necessary or convenient to the exercise of agency powers, rights, privileges, or functions.

C.S.H.B. 2493 makes the agency, if the State Securities Board no longer has status as a self-directed, semi-independent agency under The Securities Act for any reason, liable for any expenses or debts it incurs during the time it had such status, including liability for any lease entered into by the agency; establishes that the state is not liable for any such expense or debt and prohibits money from the general revenue fund from being used to repay the expense or debt; and requires ownership of any property or other asset acquired by the agency during the time it had such status, including unexpended fees in a deposit account in the Texas Treasury Safekeeping Trust Company, to be transferred to the state.

C.S.H.B. 2493 makes the State Securities Board a governmental body for the purposes of state

public information law and open meetings law and a state agency for purposes of the Administrative Procedure Act and statutory provisions relating to state licenses and permits. The bill establishes that Board employees are members of the Employees Retirement System of Texas and that the Board's transition to independent status has no effect on their membership or any benefits under that system.

C.S.H.B. 2493 prohibits the commissioner from accepting a gift, grant, or donation on the agency's behalf from a party to an enforcement action or to pursue a specific investigation or enforcement action and requires the commissioner to report each gift, grant, or donation that the agency receives as a separate item in the commissioner's required biennial report and to include with the report a statement indicating the purpose for which each gift, grant, or donation was donated and used.

C.S.H.B. 2493 removes the entitlement of each Board member to a per diem as set by legislative appropriation for each day that the member engages in Board business and instead entitles each such member to reimbursement for travel expenses incurred for each day that the member engages in such business. The bill requires the Board to determine the commissioner's salary and requires the commissioner to determine staffing levels and salaries.

C.S.H.B. 2493 requires the Sunset Advisory Commission to examine the State Securities Board's performance as a self-directed, semi-independent agency as part of the commission's periodic review of the agency under the Texas Sunset Act, requires the agency to pay the cost incurred by the commission in performing that review, requires the commission to determine the cost and to submit to the agency a statement detailing the cost, and requires the agency to promptly pay the amount after receiving such statement.

C.S.H.B. 2493 authorizes appropriations made by an Act of the 84th Legislature, Regular Session, 2015, to be spent by the State Securities Board as the securities commissioner directs, subject to the bill's provisions relating to budget, revenues, and expenses. The bill requires the board to repay to the general revenue fund the appropriations made to the agency and to the board for the 2016 and 2017 state fiscal years, respectively, not later than the last day of each of those fiscal years and as funds become available.

C.S.H.B. 2493 prohibits the transfer of the State Securities Board to self-directed and semi-independent status or the expiration of such status from canceling, suspending, or preventing any debt owed to or by the State Securities Board; any fine, tax, penalty, or obligation of any party; any contract or other obligation of any party; or any action taken by the Board, commissioner, or board employees in the administration or enforcement of the agency's duties.

C.S.H.B. 2493 establishes that the State Securities Board continues to have and exercise the powers and duties allocated to it in its enabling legislation, except as specifically amended by the bill's provisions. The bill transfers title to or ownership of all supplies, materials, records, equipment, books, papers, and furniture used by the State Securities Board to the State Securities Board in fee simple and specifies that the bill's provisions do not affect any property owned by the State Securities Board on or before the bill's effective date. The bill requires the State Securities Board, beginning September 1, 2015, to pay rent to the state 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. 2493 repeals the following provisions of The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes) to make conforming changes:

- Subsections J and N, Section 2
- Subsections C and D, Section 35
- Section 36

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2493 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1.1. The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes) is amended by adding Sections 44, 45, 46, 47, 48, 49, 50, 51, and 52 to read as follows: Sec. 44. SELF-DIRECTED AND SEMI-INDEPENDENT STATUS.

SECTION 1. The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes) is amended by adding Sections 44, 45, 46, 47, 48, 49, 50, 51, and 52 to read as follows: Sec. 44. SELF-DIRECTED AND SEMI-INDEPENDENT STATUS.

(a) Notwithstanding any other provision of law, the State Securities Board is self-directed and semi-independent as specified by The Securities Act. Any Act of the 84th Legislature that relates to the agency and that is inconsistent with the agency being self-directed and semi-independent may be implemented by the Commissioner only on authorization by the Board.

A. Notwithstanding any other provision of law, the State Securities Board is self-directed and semi-independent as specified by this Act. Any Act of the 84th Legislature that relates to the Board and that is inconsistent with the agency being self-directed and semi-independent may be implemented by the Commissioner only on authorization by the members of the Board.

(b) Except as otherwise provided by this Act, the State Securities Board is subject to a provision of law that applies to state agencies, including:

B. Except as otherwise provided by this Act, the State Securities Board is subject to a provision of law that applies to state agencies, including:

(1) state purchasing requirements under Subtitle D, Title 10, Government Code;

(1) state purchasing requirements under Subtitle D, Title 10, Government Code;

(2) interagency transfer voucher requirements under Section 2155.327, Government Code;

(2) interagency transfer voucher requirements under Section 2155.327, Government Code;

(3) travel requirements under chapters 2171 and 2205, Government Code, using amounts provided by the General Appropriations Act to guide travel reimbursement rates; and

(3) travel requirements under Chapters 2171 and 2205, Government Code, using amounts provided by the General Appropriations Act to guide travel reimbursement rates; and

(4) prompt payment requirements under chapter 2251, Government Code.

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Sec. 45. BUDGET, REVENUES, AND EXPENSES.

Sec. 45. BUDGET, REVENUES, AND EXPENSES.

(a) The Commissioner shall submit to the Board a budget annually using generally accepted accounting principles. Notwithstanding any other provision of law, including the General Appropriations Act, the budget shall be adopted and approved only by the Board.

A. The Commissioner shall submit to the members of the Board an annual budget using generally accepted accounting principles. Notwithstanding any other provision of law, including the General Appropriations Act, the budget shall be adopted and approved only by the members

(b) The State Securities Board shall be responsible for all direct and indirect costs of the agency's existence and operation. The agency may not directly or indirectly cause the general revenue fund to incur any cost.

(c) Subject to any limitations in this Act, the Board may set the amounts of the respective fees, penalties, charges, and revenues required or permitted by statute or rule as necessary for the purpose of carrying out the functions of the agency and funding the budget adopted and approved under Subsection (a).

(d) Periodically, the Commissioner shall submit to the Board, as directed by the Board, a report of the receipts and expenditures of the agency.

(e) The fiscal year for the agency begins on September 1 and ends on August 31.

(f) All fees and funds collected by the agency under Section 35.A and any funds appropriated to the agency shall be deposited in interest-bearing deposit accounts in the Texas Treasury Safekeeping Trust Company to be used exclusively to pay costs incurred by the State Securities Board in administering The Securities Act. The comptroller shall contract with the agency for the maintenance of the deposit accounts under terms comparable to a contract between a commercial banking institution and the institution's customers. The agency may not hold funds in an account that is not under the control of the comptroller.

(g) Except as provided in subsection (f) of this section, all other monies collected by the State Securities Board and any other funds belonging to or under the control of the State Securities Board shall be deposited into the General Revenue Fund.

(h) 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.

(i) The agency shall use the comptroller's uniform statewide accounting system under Chapter 2101 to make all payments, other than direct payments from the agency's account to the Texas Treasury Safekeeping Trust Company.

of the Board.

B. The State Securities Board is responsible for all direct and indirect costs of the agency's existence and operation. The agency may not directly or indirectly cause the general revenue fund to incur any cost.

C. Subject to any limitations in this Act, the Board may set the amounts of the respective fees, penalties, charges, and revenues required or permitted by statute or rule as necessary to carry out the agency's functions and to fund the budget adopted and approved under Subsection A of this section.

D. 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.

E. The fiscal year for the agency begins on September 1 and ends on August 31.

F. All fees and funds collected by the agency under Subsection A, Section 35, of this Act and any funds appropriated to the agency shall be deposited in interest-bearing deposit accounts in the Texas Treasury Safekeeping Trust Company to be used exclusively to pay costs incurred by the agency in administering this Act.

The comptroller shall contract with the agency for the maintenance of the deposit accounts under terms comparable to a contract between a commercial banking institution and the institution's customers. The agency may not hold funds in an account that is not under the control of the comptroller.

G. Except as provided by Subsection F of this section, all other money collected by the Commissioner or Board and any other funds belonging to or under the control of the Board shall be deposited into the general revenue fund.

H. 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.

I. The agency shall use the comptroller's uniform statewide accounting system under Chapter 2101, Government Code, to make all payments, other than direct payments from the agency's account to the Texas Treasury Safekeeping Trust Company.

Sec. 46. RECORDS; REPORTING REQUIREMENTS.

(a) The Commissioner shall keep financial and statistical information as necessary to disclose completely and accurately the financial condition and results of operations of the agency.

(b) Before the beginning of each regular session of the legislature, the Commissioner shall submit to the legislature and the governor a report describing all of the agency's activities in the previous biennium. The report must include:

- (1) an audit;
- (2) a financial report of the previous fiscal year, including reports on financial condition and results of operations;
- (3) a description of all changes in fees imposed on regulated persons;
- (4) a report on changes in the regulatory jurisdiction of the agency; and
- (5) a list of all new rules adopted or repealed.

(c) In addition to the reporting requirements of Subsection (b), not later than November 1 of each year, the Commissioner shall submit to the governor, the committee of each house of the legislature that has jurisdiction over appropriations, and the Legislative Budget Board a report that contains:

- (1) the salary for agency personnel and the total amount of per diem expenses and travel expenses paid for all agency employees, including trend performance data for the preceding five fiscal years;
- (2) the total amount of per diem expenses and travel expenses paid for each member of the Board, including trend performance data for the preceding five fiscal years;
- (3) the agency's operating plan covering a period of two fiscal years and operating budget, including revenues and a breakdown of expenditures by program and administrative expenses, showing:
 - (A) projected budget data for a period of two fiscal years; and
 - (B) trend performance data for the preceding five fiscal years regarding:
 - (1) the number of full-time equivalent positions at the agency;
 - (2) the number of complaints received from the public and the number of complaints initiated by agency staff;
 - (3) the number of complaints dismissed and

Sec. 46. RECORDS; REPORTING REQUIREMENTS.

A. The Commissioner shall keep financial and statistical information as necessary to disclose completely and accurately the financial condition and operations of the agency.

B. Before the beginning of each regular session of the legislature, the Commissioner shall submit to the legislature and the governor a report describing all of the agency's activities in the previous biennium. The report must include:

- (1) an audit;
- (2) a financial report of the two preceding fiscal years, including reports on financial condition and operations;
- (3) a description of all changes in fees imposed on regulated persons;
- (4) a report on changes in the regulatory jurisdiction of the Board; and
- (5) a list of all new rules adopted or repealed.

C. In addition to the reporting requirements of Subsection B of this section, not later than November 1 of each year, the Commissioner shall submit to the governor, the committee of each house of the legislature that has jurisdiction over appropriations, and the Legislative Budget Board a report that contains:

- (1) the salary for Board employees and the total amount of per diem expenses and travel expenses paid for all Board employees, including trend performance data for the preceding five fiscal years;
- (2) the total amount of per diem expenses and travel expenses paid for each member of the Board, including trend performance data for the preceding five fiscal years;
- (3) the agency's operating plan covering a period of two fiscal years and operating budget, including revenues and a breakdown of expenditures by program and administrative expenses, showing:
 - (a) projected budget data for a period of two fiscal years; and
 - (b) trend performance data for the preceding five fiscal years regarding:
 - (i) the number of full-time equivalent positions at the agency;
 - (ii) the number of complaints received from the public and the number of complaints initiated by Board employees;
 - (iii) the number of complaints dismissed

the number of complaints resolved by enforcement action;

(4) the number of enforcement actions by sanction type;

(5) the number of enforcement cases closed through voluntary compliance;

(6) the amount of administrative penalties assessed and the rate of collection of assessed administrative penalties;

(7) the number of enforcement cases that allege a threat to public health, safety, or welfare or a violation of professional standards of care and the disposition of those cases;

(8) the average time to resolve a complaint;

(9) the number of license holders or regulated persons broken down by type of license and license status, including inactive status or retired status;

(10) the fee charged to issue and renew each type of license, certificate, permit, or other similar authorization issued by the agency;

(11) the average time to issue a license;

(12) litigation costs, broken down by administrative hearings, judicial proceedings, and outside counsel costs; and

(13) reserve fund balances; and

(4) a detailed report of all revenue received and all expenses incurred by the agency in the previous 12 months.

Sec. 47. ABILITY TO CONTRACT.

(a) To carry out and promote the objectives of this Act, the Commissioner may enter into contracts and do all other acts incidental to those contracts that are necessary for the administration of the agency's affairs and for the attainment of the agency's purposes, except as limited by Subsection (b).

(b) Any indebtedness, liability, or obligation of the agency incurred under this section may not:

(1) create a debt or other liability of this state or another entity other than the agency;

or

(2) create any personal liability on the part of the members of the Board or the agency's employees.

Sec. 48. PROPERTY. The agency may:

(1) acquire by purchase, lease, gift, or any

and the number of complaints resolved by enforcement action;

(iv) the number of enforcement actions by sanction type;

(v) the number of enforcement cases closed through voluntary compliance;

(vi) the amount of administrative penalties assessed and the rate of collection of assessed administrative penalties;

(vii) the number of enforcement cases that allege a threat to public health, safety, or welfare or a violation of professional standards of care and the disposition of those cases;

(viii) the average time to resolve a complaint;

(ix) the number of license holders or regulated persons broken down by type of license and license status, including inactive status or retired status;

(x) the fee charged to issue and renew each type of license, certificate, permit, or other similar authorization issued by the Commissioner under this Act;

(xi) the average time to issue a license;

(xii) litigation costs, broken down by administrative hearings, judicial proceedings, and outside counsel costs; and

(xiii) reserve fund balances; and

(4) a detailed report of all revenue received and all expenses incurred by the agency in the preceding 12 months.

Sec. 47. ABILITY TO CONTRACT.

A. To carry out and promote the objectives of this Act, the Commissioner may enter into contracts and do all other acts incidental to those contracts that are necessary for the administration of the agency's affairs and for the attainment of the agency's purposes, except as limited by Subsection B of this section.

B. Any indebtedness, liability, or obligation of the agency incurred under this section may not:

(1) create a debt or other liability of this state or another entity other than the agency;

or

(2) create any personal liability on the part of the members of the Board or the Board's employees.

Sec. 48. PROPERTY. The Commissioner, on behalf of the agency, may:

(1) acquire by purchase, lease, gift, or any

other manner provided by law and maintain, use, and operate any real, personal, or mixed property, or any interest in property, necessary or convenient to the exercise of the powers, rights, privileges, or functions of the agency;

(2) sell or otherwise dispose of any real, personal, or mixed property, or any interest in property, that the Commissioner determines is not necessary or convenient to the exercise of the agency's powers, rights, privileges, or functions;

(3) construct, extend, improve, maintain, and reconstruct, or cause to construct, extend, improve, maintain, and reconstruct, and use and operate all facilities necessary or convenient to the exercise of the powers, rights, privileges, or functions of the agency; and

(4) borrow money, as may be authorized from time to time by an affirmative vote of a three-fifths majority of the Board, for a period not to exceed five years if necessary or convenient to the exercise of the agency's powers, rights, privileges, or functions.

Sec. 49. POST-PARTICIPATION LIABILITY.

(a) If the agency no longer has status under The Securities Act as a self-directed semi-independent agency for any reason, the agency shall be liable for any expenses or debts incurred by the agency during the time the agency was a self-directed semi-independent agency. The agency's liability under this section includes liability for any lease entered into by the agency. This state is not liable for any expense or debt covered by this subsection, and money from the general revenue fund may not be used to repay the expense or debt.

(b) If the agency no longer has status under The Securities Act as a self-directed semi-independent agency for any reason, ownership of any property or other asset acquired by the agency during the time the agency was a self-directed semi-independent agency, including unexpended fees in a deposit account in the Texas Treasury Safekeeping Trust Company, shall be transferred to this state.

Sec. 50. DUE PROCESS; OPEN GOVERNMENT.

other manner provided by law and maintain, use, and operate any real, personal, or mixed property, or any interest in property, necessary or convenient to the exercise of the powers, rights, privileges, or functions of the agency;

(2) sell or otherwise dispose of any real, personal, or mixed property, or any interest in property, that the Commissioner determines is not necessary or convenient to the exercise of the agency's powers, rights, privileges, or functions;

(3) construct, extend, improve, maintain, and reconstruct, or cause to construct, extend, improve, maintain, and reconstruct, and use and operate all facilities necessary or convenient to the exercise of the powers, rights, privileges, or functions of the agency; and

(4) borrow money, as may be authorized from time to time by an affirmative vote of a three-fifths majority of the Board, for a period not to exceed five years if necessary or convenient to the exercise of the agency's powers, rights, privileges, or functions.

Sec. 49. POST-PARTICIPATION LIABILITY.

A. If the State Securities Board no longer has status under this Act as a self-directed semi-independent agency for any reason, the agency shall be liable for any expenses or debts incurred by the agency during the time the agency was a self-directed semi-independent agency. The agency's liability under this section includes liability for any lease entered into by the agency. This state is not liable for any expense or debt covered by this subsection, and money from the general revenue fund may not be used to repay the expense or debt.

B. If the Board no longer has status under this Act as a self-directed semi-independent agency for any reason, ownership of any property or other asset acquired by the agency during the time the agency was a self-directed semi-independent agency, including unexpended fees in a deposit account in the Texas Treasury Safekeeping Trust Company, shall be transferred to this state.

Sec. 50. DUE PROCESS; OPEN GOVERNMENT.

Sec. 51. MEMBERSHIP IN EMPLOYEES RETIREMENT SYSTEM. Employees of the State Securities Board are members of the Employees Retirement System of Texas under Chapter 812, Government Code, and the State Securities Board's transition to independent status as provided by this Act has no effect on their membership or any benefits under that system.

Sec. 52. GIFTS.

(a) Notwithstanding any other law, the Commissioner may not accept a gift, grant, or donation on behalf of the agency:

(1) from a party to an enforcement action;
or

(2) to pursue a specific investigation or enforcement action.

(b) The Commissioner must:

(1) report each gift, grant, or donation that the agency receives as a separate item in the agency's report required under Section 47(b); and

(2) include with the report a statement indicating the purpose for which each gift, grant, or donation was donated and used.

SECTION 1.2. Section 2, The Securities Act (Article 581-2, Vernon's Texas Civil Statutes), is amended by amending Subsections D, G, K, and O to read as follows:

D. Each member of the Board is entitled to reimbursement for the 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 salary of the Securities Commissioner. 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

Sec. 51. MEMBERSHIP IN EMPLOYEES RETIREMENT SYSTEM. Employees of the State Securities Board are members of the Employees Retirement System of Texas under Chapter 812, Government Code, and the Board's transition to independent status as provided by this Act has no effect on their membership or any benefits under that system.

Sec. 52. GIFTS. A. Notwithstanding any other law, the Commissioner may not accept a gift, grant, or donation on behalf of the agency:

(1) from a party to an enforcement action;
or

(2) to pursue a specific investigation or enforcement action.

B. The Commissioner must:

(1) report each gift, grant, or donation that the agency receives as a separate item in the agency's report required under Subsection B, Section 46, of this Act; and

(2) include with the report a statement indicating the purpose for which each gift, grant, or donation was donated and used.

SECTION 2. Subsections D, G, K, and O, 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

Commissioner by the provisions of this Act.

K. 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. The Commissioner shall determine the number of Board employees and the salaries of those employees.

O. The State Securities Board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this Act expires September 1, 2019. The Sunset Advisory Commission shall examine the agency's performance as a self-directed and semi-independent agency as part of the commission's periodic review of the agency under Chapter 325, Government Code (Texas Sunset Act). The agency shall pay the cost incurred by the Sunset Advisory Commission in performing a review of the agency under the agency's enabling legislation. The Sunset Advisory Commission shall determine the cost, and the agency shall pay the amount promptly on receipt of a statement from the Sunset Advisory Commission detailing the cost.

SECTION 1.3. Subsection C of 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 1.4. Subsection A of Section 35, The Securities Act (Article 581-35, Vernon's Texas Civil Statutes), is amended to read as follows:

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.

O. The Sunset Advisory Commission shall examine the State Securities Board's performance as a self-directed and semi-independent agency as part of the commission's periodic review of the agency under [The State Securities Board is subject to] Chapter 325, Government Code (Texas Sunset Act). The agency shall pay the cost incurred by the commission in performing a review of the agency. The commission shall determine the cost and submit to the agency a statement detailing the cost. The agency shall pay the amount promptly after receiving the statement. Unless continued in existence as provided by that chapter, the State Securities Board ~~board~~ is abolished and this Act expires September 1, 2019.

SECTION 3. 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 4. Subsection A, Section 35, The Securities Act (Article 581-35, Vernon's Texas Civil Statutes), is 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.~~

SECTION 1.5. Subsections J and N of Section 2, The Securities Act (Article 581-2, Vernon's Texas Civil Statutes), Subsections C and D of Section 35, The Securities Act (Article 581-35, Vernon's Texas Civil Statutes), and Section 36, The Securities Act (Article 581-36, Vernon's Texas Civil Statutes) are repealed.

SECTION 2.1. To provide a reasonable period for the State Securities Board to establish itself as a self-directed and semi-independent agency, the following amounts are appropriated from the general revenue fund to the State Securities Board:

- (1) for the state fiscal year ending August 31, 2016, an amount equal to 50% of the amount of general revenue appropriated to the agency for the state fiscal year ending August 31, 2015; and

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.~~

SECTION 5. The following provisions of The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes) are repealed:

- (1) Subsections J and N, Section 2;
- (2) Subsections C and D, Section 35; and
- (3) Section 36.

No equivalent provision.

(2) for the state fiscal year ending August 31, 2017, an amount equal to 50% of the amount of general revenue appropriated to the agency for the state fiscal year ending August 31, 2015.

SECTION 2.2. Subject to Section 45, as added by this Act, the appropriations made in this Act may be spent by the State Securities Board to which they are made as the Commissioner directs. The agency shall repay to the general revenue fund the appropriation made to the agency for the state fiscal year ending August 31, 2016, not later than that date and as funds become available. The agency shall repay to the general revenue fund the appropriation made to the agency for the state fiscal year ending August 31, 2017, not later than that date and as funds become available.

SECTION 3.1. 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, Commissioner, or agency in the administration or enforcement of the agency's duties.

SECTION 3.2. The State Securities Board shall continue to have and exercise the powers and duties allocated to the agency in the agency's enabling legislation, except as specifically amended by this Act.

SECTION 4.1. 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

SECTION 6. Subject to Section 45, The Securities Act (Article 581-45, Vernon's Texas Civil Statutes), as added by this Act, the appropriations made by an Act of the 84th Legislature, Regular Session, 2015, 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, 2016, 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, 2017, not later than that date and as funds become available.

SECTION 7. 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 8. 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 9. 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 section**.

Act does not affect any property owned by the State Securities Board on or before the effective date of **this Act**.

SECTION 4.2. Beginning September 1, 2015, 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 10. Same as introduced version.

SECTION 5. This Act takes effect September 1, 2015.

SECTION 11. Same as introduced version.