

BILL ANALYSIS

Senate Research Center

H.B. 2493
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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. 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.

H.B. 2493 amends current law relating to the self-directed and semi-independent status of the State Securities Board and authorizes fees.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 472.001, Government Code, as follows:

Sec. 472.001. **APPLICABILITY OF CHAPTER.** Adds the State Securities Board to a list of entities to which this chapter applies. Makes nonsubstantive changes.

SECTION 2. Amends the Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes) by adding Sections 44, 45, 46, and 47, as follows:

Sec. 44. **SELF-DIRECTED AND SEMI-INDEPENDENT STATUS.** Provides that the State Securities Board (Board) has self-directed and semi-independent status as provided under Chapter 472 (Self-Directed Semi-Independent Agencies), Government Code.

Sec. 45. **REPORT TO BOARD.** Requires the Securities Commissioner (Commissioner), periodically, to 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.** Requires that the refund, if the Commissioner or Board determines that all or part of a registration fee should be refunded, be made by warrant on the state treasury from the fund into which the registration fee was deposited.

Sec. 47. **REPRESENTATION BY ATTORNEY GENERAL.** Authorizes the attorney general of the State of Texas (attorney general) to 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. Provides that, 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 (Administrative Procedure), Government Code.

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

D. Entitles each member of the Board to reimbursement for travel expenses for each day that the member engages in the business of the Board, rather than entitles each member of the Board to per diem as set by legislative appropriation for each day that the member engages in the business of the Board.

G. Requires the Board to determine the Commissioner's salary. Requires each member of the Board to have access to all offices and records under his supervision, and authorizes the Board, or a majority thereof, to exercise any power or perform any act authorized to the Commissioner by the provisions of this Act. Makes a nonsubstantive change.

K. Requires the Commissioner to determine the number of Board employees and the employees' salaries.

SECTION 4. Amends Subsection C, Section 2-3, The Securities Act (Article 581-2-3, Vernon's Texas Civil Statutes), to entitle a person appointed to the Board to reimbursement 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, rather than entitles a person appointed to the Board 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. Amends Subsections A and D, Section 35, The Securities Act (Article 581-35, Vernon's Texas Civil Statutes), as follows:

A. Requires the Board to establish the following fees to produce sufficient revenue to cover the costs of administering and enforcing this Act:

(1)-(5) Deletes a reference to an amount not to exceed \$100 in the requirements set forth for the Board to establish certain fees.

Deletes existing text requiring the Board to establish the following fees 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 as set forth.

D. Provides that 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. Repealers: Subsections J (requiring the Board, on or before January 1, of each year, with the advice of the Commissioner to report to the Governor and the presiding officer of each house of the Legislature as to its administration of this Act, as well as plans and needs for future securities regulation), M (providing that the financial transactions of the Board are subject to certain provisions), and N (providing that the Board and Commissioner are subject to certain chapters of the Government Code as set forth), Section 2, Article 581-1 et seq., Vernon's Texas Civil Statutes.

Repealer: Subsection C (requiring the board to set a fee under this section in an amount that is reasonable and necessary to defray costs), Section 35, Article 581-1 et seq., Vernon's Texas Civil Statutes.

Repealer: Section 36 (Deposit to General Revenue Fund), Article 581-1 et seq., Vernon's Texas Civil Statutes.

SECTION 7. Provides that, subject to Chapter 472, Government Code, 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. Requires the board to 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. Requires the board to 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 8. Prohibits the transfer of the Board to self-directed and semi-independent status under this Act, and the expiration of self-directed and semi-independent status from acting to cancel, suspend, or prevent:

- (1) any debt owed to or by the 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 Board, the Commissioner, or the board's employees in the administration or enforcement of the agency's duties.

SECTION 9. Requires the Board to 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. Provides that title to or ownership of all supplies, materials, records, equipment, books, papers, and furniture used by the Board is transferred to the Board in fee simple. Provides that this Act does not affect any property owned by the Board on or before the effective date of this Act.

SECTION 11. Requires the Board, beginning September 1, 2015, to 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. Effective date: September 1, 2015.