

BILL ANALYSIS

Senate Research Center
88R13 SRA-F

S.B. 927
By: Parker
Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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. SSB needs the ability to set salaries in order to retain veteran staff and remain a well-functioning agency.

S.B. 927 seeks to address this issue by granting SSB self-directed and semi-independent agency status, thus making SSB responsible for covering its own operational costs through fees and other revenue and not subject to the regular legislative appropriations process.

As proposed, S.B. 927 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. Provides that Chapter 472 (Self-Directed Semi-Independent Agencies) applies to certain agencies, including the State Securities Board (SSB).

SECTION 2. Amends Subchapter A, Chapter 4002, Government Code, by adding Section 4002.003, as follows:

Sec. 4002.003. SELF-DIRECTED AND SEMI-INDEPENDENT STATUS. Provides that SSB has self-directed and semi-independent status as provided under Chapter 472.

SECTION 3. Amends Section 4002.057, Government Code, as follows:

Sec. 4002.057. PER DIEM. Provides that a member of SSB is entitled to reimbursement for travel expenses incurred, rather than a per diem as set by legislative appropriation, for each day the member engages in the business of SSB.

SECTION 4. Amends Section 4002.058(c), Government Code, by making a conforming change.

SECTION 5. Amends Section 4002.101, Government Code, as follows:

Sec. 4002.101. SECURITIES COMMISSIONER. (a) Creates this subsection from existing text. Makes no further changes to this subsection.

(b) Requires SSB to determine the salary of the securities commissioner (commissioner).

SECTION 6. Amends Subchapter C, Chapter 4002, Government Code, by adding Section 4002.1045, as follows:

Sec. 4002.1045. BOARD EMPLOYEES. Requires the commissioner to determine the number of SSB employees and the employees' salaries.

SECTION 7. Amends Subchapter D, Chapter 4002, Government Code, by adding Section 4002.164, as follows:

Sec. 4002.164. REPORT TO BOARD. Requires the commissioner to periodically submit to the members of SSB, as directed by SSB members, a report of the receipts and expenditures of the agency.

SECTION 8. Amends Section 4006.001, Government Code, as follows:

Sec. 4006.001. CERTAIN REGISTRATION AND NOTICE FILING FEES. Requires SSB to establish the following fees to produce sufficient revenue to cover the costs of administering and enforcing Title 12 (Securities Act):

(1) for filing an original, amended, or renewal application or registration statement to sell or dispose of securities, rather than for filing an original, amended, or renewal application or registration statement to sell or dispose of securities, an amount not to exceed \$100; and

(2)-(5) makes conforming changes to these subdivisions.

Deletes existing text requiring SSB to establish certain 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 title.

SECTION 9. Amends Section 4006.103, Government Code, as follows:

Sec. 4006.103. PAYMENT OF CERTAIN COSTS. Authorizes a cost incurred by SSB in administering or enforcing this title to be paid only from a fee collected under Section 4006.001 (Certain Registration and Notice Filing Fees).

SECTION 10. Amends Section 4006.104, Government Code, as follows:

Sec. 4006.104. REFUND OF REGISTRATION FEE. Requires that the refund, if the commissioner or SSB 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. Deletes existing text authorizing the commissioner, if the commissioner or SSB determines that all or part of a registration fee should be refunded, to make the refund by warrant on the state treasury from money appropriated from the general revenue fund for that purpose.

SECTION 11. Amends Subchapter A, Chapter 4007, Government Code, by adding Section 4007.003, as follows:

Sec. 4007.003. REPRESENTATION BY ATTORNEY GENERAL. (a) Authorizes the attorney general to assess and collect from the commissioner or SSB reasonable attorney's fees associated with any legal representation requested by the commissioner and provided by the attorney general.

(b) Provides that a requirement that the attorney general represent an agency in any litigation, notwithstanding any other law, does not apply to a proceeding under this title that is governed by Chapter 2001 (Administrative Procedure).

SECTION 12. Repealer: Section 4002.001 (Applicability of Other Law), Government Code.

Repealer: Section 4002.155 (Deposit of Receipts to General Revenue Fund), Government Code.

Repealer: Section 4002.163 (Annual Report), Government Code.

Repealer: Section 4006.101 (Reasonable and Necessary Requirement), Government Code.

Repealer: Section 4006.251 (Deposit of Fees to General Revenue Fund), Government Code.

SECTION 13. Authorizes the appropriations made to SSB by an Act of the 88th Legislature, Regular Session, 2023, to be spent by SSB as the commissioner directs, subject to Chapter 472, Government Code. Requires SSB to repay to the general revenue fund the appropriation made to the agency for the state fiscal year ending August 31, 2024, not later than that date and as funds become available. Requires SSB to repay to the general revenue fund the appropriation made to SSB for the state fiscal year ending August 31, 2025, not later than that date and as funds become available.

SECTION 14. Prohibits the transfer of SSB 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 any debt owed to or by SSB; any fine, tax, penalty; or obligation of any party; any contract or other obligation of any party; or any action taken by SSB, the commissioner, or SSB's employees in the administration or enforcement of the agency's duties.

SECTION 15. Requires SSB to continue to have and exercise the powers and duties allocated to SSB in SSB's enabling legislation, except as specifically amended by this Act.

SECTION 16. Provides that title to or ownership of all supplies, materials, records, equipment, books, papers, and furniture used by SSB is transferred to SSB in fee simple. Provides that this Act does not affect any property owned by SSB on or before the effective date of this Act.

SECTION 17. Requires SSB, beginning September 1, 2023, 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 18. Effective date: September 1, 2023.