

HCS HBs 2908 & 2990 -- MISSOURI SECURITIES ACT

SPONSOR: Oehlerking

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Special Committee on Intergovernmental Affairs by a vote of 13 to 1. Voted "Do Pass" by the Standing Committee on Rules-Administrative by a vote of 10 to 0.

The following is a summary of the House Committee Substitute for HBs 2908 & 2990.

This bill establishes two new funds within the Missouri Securities Act of 2003, Chapter 409, RSMo. The bill allows the Commissioner of Securities to adjust fees to cover the expenses or costs associated with the Chapter, as specified in the bill. The General Assembly may adopt a concurrent resolution pursuant to Article IV, Section 8 of the Missouri Constitution to reject a rule adjusting the fees. No more than one increase can be made in any four-year time period, and the total increase in fees in any eight-year period exceed \$25. No fee increase will be made by rule after December 31, 2045. The bill specifies factors that must be considered by the Commissioner when determining whether a fee increase is necessary.

The bill requires the Commissioner to conduct a comprehensive financial review of the Securities Division's revenue and expenditures every four years, beginning in fiscal year 2030, as specified in the bill. The findings of the review must be published in a report and posted to the Division's website within 90 days of completion. If the Commissioner determines a budget surplus exists that is not reasonably necessary to meet the anticipated costs of operating the division, the Commissioner must, by order, decrease the fees in an amount that ensures that the fee revenue more closely aligns with the operational needs of the Division, but the fees must not be decreased below the amount established by the General Assembly in statute.

The "Securities Division Fund" is created to finance the operations of the Division. Under this bill, all moneys collected to reimburse the Division for the reasonable costs of audits or inspections under Sections 409.4-411(d), RSMo, all moneys generated by fee increases implemented by rule must be credited to this Fund, filing fees as specified in the bill, and other moneys appropriated by the General Assembly.

The Fund is appropriated only for use by the Securities Division for operating costs and certain other authorized expenses, and any remaining balance cannot be transferred to General Revenue. Instead, any funds in excess of \$250,000 at the end of a given calendar year must be transferred to the Investor Education and Protection Fund.

The "Restitution Recovery Fund" is established to provide restitution assistance to investors who have received a final order awarding restitution but have not been paid in full. Moneys appropriated by the General Assembly and those collected under Section 409.6-604, RSMo, will be paid into the Fund. The Fund will be a dedicated fund administered by the Commissioner of the Division for the sole purposes of awarding restitution ordered under Section 409.6-604, RSMo, and restitution assistance to aggrieved investors who were awarded restitution in a final order issued under the Missouri Securities Act but were not paid in full.

The bill provides that moneys in the Fund will not revert to the credit of the General Revenue Fund at the end of the biennium. The Commissioner must adopt rules for administration as specified in the bill.

After determining that the conditions for restitution have been met, the Commissioner must notify the State Treasurer, who will approve the disbursement of such determined amount from the Fund to each aggrieved investor identified in the notice.

The bill allows restitution assistance of up to the lesser of \$25,000 or 25% of unpaid restitution in a final order and requires funds in excess of one million dollars to be transferred to the "Investor Education and Protection Fund" that is currently established in Sections 409.6-601 at the end of the calendar year. If payment of restitution assistance to aggrieved investors would result in a restitution recovery fund balance below \$50,000, the Commissioner may suspend restitution assistance until such time as the Commissioner determines a sufficient balance has been restored to the Fund.

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPOSERS: Supporters say that the State collects \$20,000,000 in fees but spends less than \$2,000,000 protecting citizens. The State is exposed to the same legal vulnerabilities that led to a

lawsuit against Kansas. The state of Kansas paid out tens of millions of dollars for failing to address the same issue. The bill's restitution assistance fund is a great way to help satisfy claims that are difficult to collect. It is a good use of the fees. The division receives far less funding than it needs to protect against fraud, so Missouri are falling behind other states. The office performs less than half of the number of audits needed, lacks staffing, and generally cannot fulfill its supervisory duties without this legislation, because fees are being collected and rolled into the General Revenue Fund. This legislation is trying to put the Securities Division on the same footing as the Division of Finance, which already has a dedicated fund. The restitution fund allows revenues generated from an industry to address injuries caused by bad actions in the industry the fines come from.

Testifying in person for the bill were Representative Oehlerking; Michael O'Donnell, Missouri Securities Division.

OPPONENTS: Those who oppose the bill say that the bill is decreasing fees but giving the ability to increase fees. Additionally, these increased costs will be passed on to consumers. This will end in a significant increase in funding to the Division, and new fees and taxes contribute to the financial hardship faced by many as prices on everything rise.

Testifying in person against the bill was Arnie C. Dienoff.

Written testimony has been submitted for this bill. The full written testimony and witnesses testifying online can be found under Testimony on the bill page on the House website.