

STATE SECURITIES DEPARTMENT

Enabling Laws

Act 269 of 2014

A.C.A. §20-17-1001 et seq.

A.C.A. §23-35-101 et seq.

A.C.A. §23-38-101 et seq.

A.C.A. §23-39-501 et seq.

A.C.A. §23-42-101 et seq.

A.C.A. §23-55-101 et seq.

A.C.A. §23-37-101 et seq.

History and Organization

The Arkansas Securities Department has legislated responsibilities to protect the monetary interests of Arkansas residents by providing administration, regulation, and enforcement of the various Acts.

Act 254 of 1959 placed responsibility for the “sale of securities” under the jurisdiction of the State Bank Department, and provided for a State Securities Commissioner. The Securities Commissioner was to be appointed by the Governor and subject to the supervision of the State Bank Commissioner, and the Securities Department was operated as a division of the State Bank Department. Act 38 of 1971 transferred both the State Bank Department and the State Securities Department to the Department of Commerce. Each division continued to function independently of the Commerce Department with regard to the prescribed statutory powers, authorities, duties, and rulemaking responsibilities they had prior to the transfer. Act 471 of 1973 amended Act 254 of 1959 to provide that the Securities Division was no longer a part of the State Bank Department and the Securities Commissioner was no longer subject to the supervision of the State Bank Commissioner. The Act further provided that the Securities Division be renamed the Arkansas Securities Department and that all Acts previously regulated by the Securities Division be transferred to the new agency effective July 1, 1973.

In early 1975 it became apparent that the special revenue fund balances transferred to the Department by the Bank Department pursuant to Act 471 of 1973 would not be sufficient to continue operation of the Department at its then current level. Act 863 of 1975 amended all Acts administered by the Department to reclassify all revenues received by the Department as general revenues. Thus, effective July 1, 1975, the Department ceased being a special revenue agency and became a general revenue agency with all expenditures paid from the general revenues of the State.

Act 691 of 1983 abolished the Department of Commerce. Section 3 of the Act directed that the State Securities Department shall function as an independent agency. The Securities Commissioner is appointed by the Governor and serves at the pleasure of the Governor.

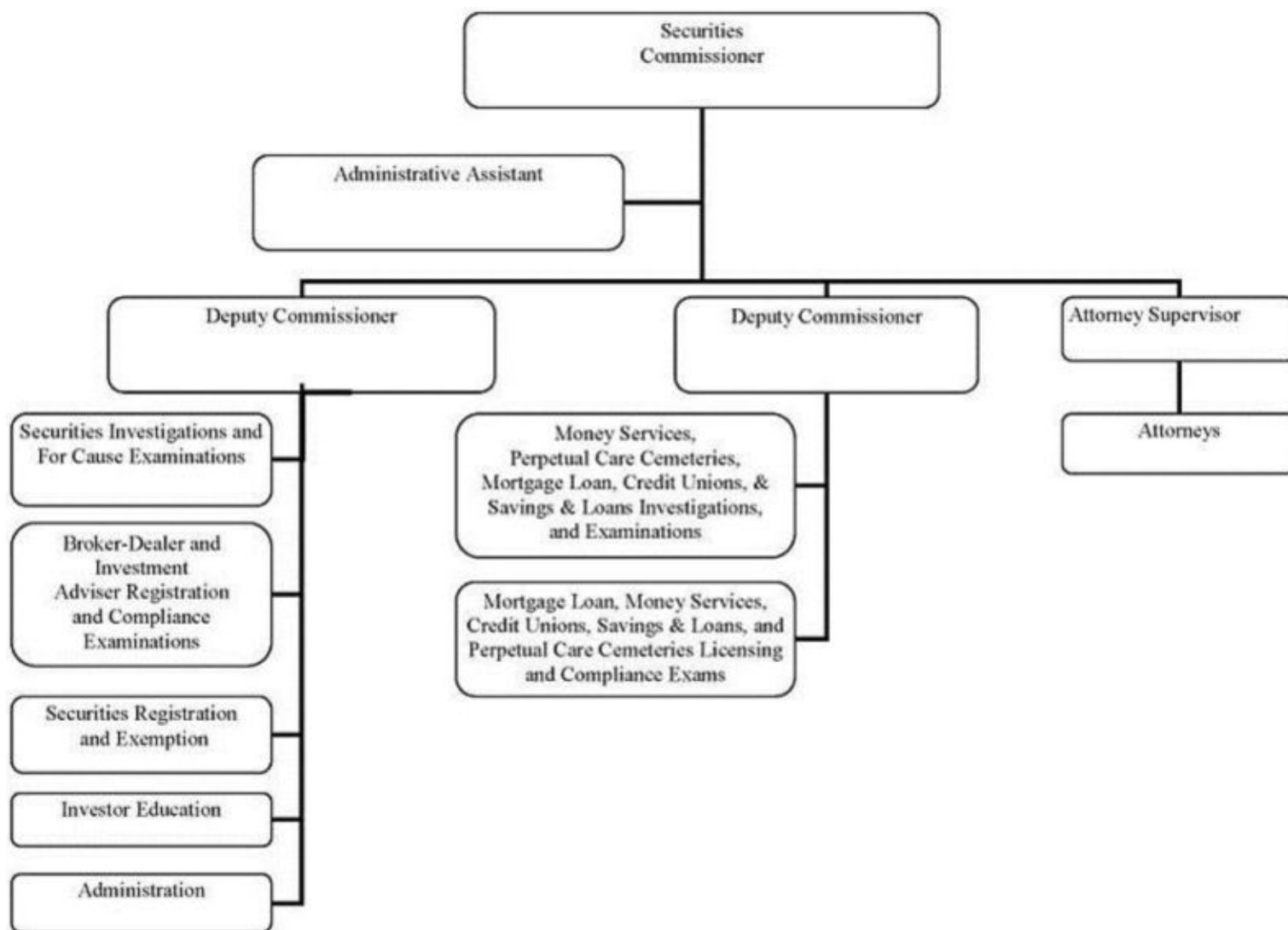
Act 42 of the First Extraordinary Session of 1989 appropriated funds to the Arkansas Securities Department, up to a maximum of \$200,000 in each fiscal year, to be used to contract for legal, accounting, and other appropriate assistance in addition to that available from the Department's regular staff, in specific cases and situations as deemed necessary by the Securities Commissioner. Act 207 of 1993 provided that all revenues received from administrative fines shall be deposited into the fund account from which the Arkansas Securities Department receives its maintenance and support as special revenues and used only for the stated purposes. Act 66 of 1997 provides in the event specific cases, situations, or programs make it necessary that the State Securities Department receives additional appropriations to carry out the objectives of the agency, the Securities Commissioner is hereby authorized to request the approval of the Governor and the Chief Fiscal Officer of the State for transfer of the appropriations provided in the Contingency line item (\$200,000). In no event shall the transfer in any fiscal year exceed the appropriations provided in the Contingency line item. The Governor may approve or modify such request for transfer of appropriations as in his judgment he deems necessary, and shall inform the Chief Fiscal Officer of the State. Upon notification, the Chief Fiscal Officer of the State shall direct the State Auditor to process said transfer upon his books.

Act 659 of 1993 created on the books of the Chief Fiscal Officer of the State and those of the State Treasurer a fund to be known as the "Securities Department Fund". Such fund is to be used for the maintenance, operation, support and improvement of the State Securities Department in carrying out its functions, powers, and duties as set out by law and by rule and regulation not inconsistent with law. Filing fees for initial or renewal registration of agent of a broker-dealer and investment adviser were increased to Seventy-five dollars (\$75), of which twenty-five dollars (\$25) shall be designated as special revenue and shall be deposited in the Securities Department Fund. Also, the filing fee for the filing of a registration statement was increased to a maximum filing fee of no more than two thousand dollars (\$2,000). Any portion of the fee in excess of one thousand dollars (\$1,000) shall be designated as special revenues and shall be deposited in the Securities Department Fund.

The Securities Department's operating appropriation is funded from special revenues deposited with the State Treasurer in the Securities Department Fund. The Securities Department Fund consists of portions of certain filing fees received by the Securities Department. Act 759 of 2003 created the Investor Education Fund. The Investor Education Program is funded from administrative fines received by the Department. The fines deposited into the Investor Education Fund are limited to \$150,000 each fiscal year. Fines received in excess of \$150,000 are deposited into the Securities Department Fund. The remaining fees and funds received by the Securities Department are turned over to the State Treasurer as general revenues.

Pursuant to the Savings and Loan Association Act, Act 227 of 1963, as amended, the Securities Commissioner acts as the Supervisor of savings and loan associations. In 1997 the Savings and Loan Association Act was amended to do away with the Savings and Loan Association Board and transferred the Board's power and authority to the Savings and Loan Supervisor.

Pursuant to the Cemetery Act, Act 352 of 1977, as amended, the Securities Commissioner serves as a voting member of the Cemetery Board.



Agency Commentary

The Arkansas Securities Department is responsible for protecting the financial well-being of Arkansas citizens and promoting an environment where the financial and capital markets function efficiently and without unnecessary regulatory impediments. The operations of the Department are funded from the receipt of fees collected by the Department. Change Level requests include the following items:

Professional Services: The Department is requesting an increase in the amount of \$30,000 to hire consultants to provide expert testimony related to investigations conducted by the Department. The consultants would be used to support the position of the Department related to violations of the applicable statutes and rules.

Capital Outlay: The Department is requesting \$13,500 in Capital Outlay in each fiscal year for replacement of obsolete equipment, file servers and other technology equipment as set forth in the Department's Information Technology Plan.

Additionally, the Department is requesting an increase in appropriation of \$25,000 in each fiscal year to replace one vehicle in each year according to the Arkansas Vehicle Fleet Management Guidelines.

Audit Findings

DIVISION OF LEGISLATIVE AUDIT
AUDIT OF :
STATE SECURITIES DEPARTMENT
FOR THE YEAR ENDED JUNE 30, 2013

Findings

None

Recommendations

None

State Contracts Over \$50,000 Awarded To Minority Owned Businesses Fiscal Year 2014

None

Employment Summary

	Male	Female	Total	%
White Employees	14	20	34	94 %
Black Employees	1	1	2	6 %
Other Racial Minorities	0	0	0	0 %
Total Minorities			2	6 %
Total Employees			36	100 %

Cash Fund Balance Description as of June 30, 2014

Fund Account	Balance	Type	Location
1530000	\$7,860	Checking Account	Simmons First National Bank

Statutory/Other Restrictions on use:

None

Statutory Provisions for Fees, Fines, Penalties:

A.C.A. §23-42-304 authorizes the State Securities Department to collect various filling fees.

Revenue Receipts Cycle:

Revenue deposited as received. Excess transferred to Treasury Account.

Fund Balance Utilization:

Refunds and reimbursements, remaining revenues are transferred to treasury account.

Publications

A.C.A. 25-1-201 et seq.

Name	Statutory Authorization	Required for		# of Copies	Reason(s) for Continued Publication and Distribution	Unbound Black & White Copies Produced During the Last Two Years	Cost of Unbound Copies Produced During the Last Two Years
		Governor	General Assembly				
None	None	N	N	0	None	0	0.00

Department Appropriation Summary

Historical Data

Agency Request and Executive Recommendation

Appropriation		2013-2014		2014-2015		2014-2015		2015-2016						2016-2017					
		Actual	Pos	Budget	Pos	Authorized	Pos	Base Level	Pos	Agency	Pos	Executive	Pos	Base Level	Pos	Agency	Pos	Executive	Pos
027	State Operations	3,080,073	38	3,230,101	39	3,391,385	39	3,443,285	39	3,511,785	39	3,511,785	39	3,445,617	39	3,514,117	39	3,514,117	39
1MV	Investor Education	84,634	0	113,500	0	113,500	0	113,500	0	113,500	0	113,500	0	113,500	0	113,500	0	113,500	0
C67	Refunds and Reimbursements	42,079	0	500,000	0	500,000	0	500,000	0	500,000	0	500,000	0	500,000	0	500,000	0	500,000	0
Total		3,206,786	38	3,843,601	39	4,004,885	39	4,056,785	39	4,125,285	39	4,125,285	39	4,059,117	39	4,127,617	39	4,127,617	39

Funding Sources			%		%			%		%		%		%		%		%
Fund Balance	4000005	2,622,651	38.8	3,546,624	43.3		4,353,023	48.4	4,353,023	48.4	4,353,023	48.4	4,946,238	51.5	4,877,738	51.2	4,877,738	51.2
Special Revenue	4000030	4,083,820	60.5	4,150,000	50.6		4,150,000	46.1	4,150,000	46.1	4,150,000	46.1	4,150,000	43.2	4,150,000	43.6	4,150,000	43.6
Cash Fund	4000045	46,939	0.7	500,000	6.1		500,000	5.6	500,000	5.6	500,000	5.6	500,000	5.2	500,000	5.2	500,000	5.2
Total Funds		6,753,410	100.0	8,196,624	100.0		9,003,023	100.0	9,003,023	100.0	9,003,023	100.0	9,596,238	100.0	9,527,738	100.0	9,527,738	100.0
Excess Appropriation/(Funding)		(3,546,624)		(4,353,023)			(4,946,238)		(4,877,738)		(4,877,738)		(5,537,121)		(5,400,121)		(5,400,121)	
Grand Total		3,206,786		3,843,601			4,056,785		4,125,285		4,125,285		4,059,117		4,127,617		4,127,617	

Agency Position Usage Report

FY2012 - 2013						FY2013 - 2014						FY2014 - 2015					
Authorized in Act	Budgeted			Unbudgeted Total	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted Total	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted Total	% of Authorized Unused
	Filled	Unfilled	Total				Filled	Unfilled	Total				Filled	Unfilled	Total		
40	36	4	40	0	10.00 %	39	36	3	39	0	7.69 %	39	35	4	39	0	10.26 %

Analysis of Budget Request

Appropriation: 027 - State Operations

Funding Sources: SDH - Securities Department Fund

The State Operations appropriation is funded by special revenue fees that are authorized by A.C.A. §19-6-475. Administrative fines collected by the Agency are also designated as special revenues.

Base Level Regular Salaries and Personal Services Matching include continuation of the previously authorized 2015 1% Cost of Living Adjustment and Career Service Payments for eligible employees. Personal Services Matching also includes a \$10 increase in the monthly contribution for State employee's health insurance for a total State match per budgeted employee of \$420 per month. Base Level salaries and matching do not include appropriation for Merit Pay Increases. The Base Level salary of unclassified positions reflects the FY2015 line item maximum plus the previously authorized 2015 1% Cost of Living Adjustment.

Base Level Request is \$3,443,285 for FY2016 and \$3,445,617 for FY2017.

In addition to Base Level, the Department is requesting changes that total \$68,500 each year of the biennium as follows:

- Professional Fees of \$30,000 each year of the biennium to hire consultants to provide supporting expert testimony related to investigations conducted by the department.
- Capital Outlay of \$38,500 each year of the biennium to replace one vehicle each year according to the Arkansas Fleet Management Guidelines and for upgrades and replacement of technology equipment as indicated in the Department's Information Technology Plan.

The Executive Recommendation provides for the Agency Request.

Appropriation Summary

Appropriation: 027 - State Operations
Funding Sources: SDH - Securities Department Fund

Historical Data

Agency Request and Executive Recommendation

Commitment Item		2013-2014	2014-2015	2014-2015	2015-2016			2016-2017		
		Actual	Budget	Authorized	Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries	5010000	1,958,824	2,032,069	2,015,118	2,049,984	2,049,984	2,049,984	2,051,884	2,051,884	2,051,884
#Positions		38	39	39	39	39	39	39	39	39
Extra Help	5010001	9,750	16,000	16,000	16,000	16,000	16,000	16,000	16,000	16,000
#Extra Help		2	2	2	2	2	2	2	2	2
Personal Services Matching	5010003	633,973	656,888	635,123	665,657	665,657	665,657	666,089	666,089	666,089
Operating Expenses	5020002	418,773	447,160	447,160	447,160	447,160	447,160	447,160	447,160	447,160
Conference & Travel Expenses	5050009	23,536	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000
Professional Fees	5060010	28,502	14,484	14,484	14,484	44,484	44,484	14,484	44,484	44,484
Data Processing	5090012	0	0	0	0	0	0	0	0	0
Capital Outlay	5120011	0	13,500	13,500	0	38,500	38,500	0	38,500	38,500
Contingency	5130018	0	0	200,000	200,000	200,000	200,000	200,000	200,000	200,000
Examination Travel	5900046	6,715	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000
Total		3,080,073	3,230,101	3,391,385	3,443,285	3,511,785	3,511,785	3,445,617	3,514,117	3,514,117
Funding Sources										
Fund Balance	4000005	1,905,488	2,758,764		3,528,663	3,528,663	3,528,663	4,085,378	4,016,878	4,016,878
Special Revenue	4000030	3,933,349	4,000,000		4,000,000	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000
Total Funding		5,838,837	6,758,764		7,528,663	7,528,663	7,528,663	8,085,378	8,016,878	8,016,878
Excess Appropriation/(Funding)		(2,758,764)	(3,528,663)		(4,085,378)	(4,016,878)	(4,016,878)	(4,639,761)	(4,502,761)	(4,502,761)
Grand Total		3,080,073	3,230,101		3,443,285	3,511,785	3,511,785	3,445,617	3,514,117	3,514,117

FY15 Budget amount in Regular Salaries and Personal Services Matching exceeds the authorized amount due to salary and matching rate adjustments during the 2013-2015 Biennium.

Change Level by Appropriation

Appropriation: 027 - State Operations
Funding Sources: SDH - Securities Department Fund

Agency Request

Change Level		2015-2016	Pos	Cumulative	% of BL	2016-2017	Pos	Cumulative	% of BL
BL	Base Level	3,443,285	39	3,443,285	100.0	3,445,617	39	3,445,617	100.0
C01	Existing Program	55,000	0	3,498,285	101.6	55,000	0	3,500,617	101.6
C08	Technology	13,500	0	3,511,785	102.0	13,500	0	3,514,117	102.0

Executive Recommendation

Change Level		2015-2016	Pos	Cumulative	% of BL	2016-2017	Pos	Cumulative	% of BL
BL	Base Level	3,443,285	39	3,443,285	100.0	3,445,617	39	3,445,617	100.0
C01	Existing Program	55,000	0	3,498,285	101.6	55,000	0	3,500,617	101.6
C08	Technology	13,500	0	3,511,785	102.0	13,500	0	3,514,117	102.0

Justification

C01	Professional Services: The Department is requesting an increase in the amount of \$30,000 to hire consultants to provide expert testimony related to investigations conducted by the Department. The consultant would be used to support the position of the Department related to violations of the applicable statutes and rules. Capital Outlay: The Department is requesting an increase in appropriation of \$25,000 in each fiscal year to replace one vehicle in each year according to the Arkansas Vehicle Fleet Management Guidelines.
C08	The Department is requesting \$13,500 in Capital Outlay in each fiscal year for replacement of obsolete equipment, file servers and other technology equipment as set forth in the Department's Information Technology Plan.

Analysis of Budget Request

Appropriation: 1MV - Investor Education

Funding Sources: SDH - Investor Education Fund

The Securities Department's Investor Education Program was established by Act 759 of 2003 (A.C.A. §23-42-213) and is funded by administrative fines levied by the Department. The Program is designed to work in conjunction with various non-profit economic education, religious, civic, and community groups to provide economic and financial education primarily to junior high through first year college students and senior citizen groups and to inform the investing public of investment schemes and unlawful, fraudulent conduct.

The Agency Request provides for Base Level of \$113,500 each year of the biennium.

The Executive Recommendation provides for the Agency Request.

Appropriation Summary

Appropriation: 1MV - Investor Education

Funding Sources: SDH - Investor Education Fund

Historical Data

Agency Request and Executive Recommendation

Commitment Item		2013-2014	2014-2015	2014-2015	2015-2016			2016-2017		
		Actual	Budget	Authorized	Base Level	Agency	Executive	Base Level	Agency	Executive
Operating Expenses	5020002	9,145	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000
Conference & Travel Expenses	5050009	0	0	0	0	0	0	0	0	0
Professional Fees	5060010	0	0	0	0	0	0	0	0	0
Data Processing	5090012	0	0	0	0	0	0	0	0	0
Promotional Items	5090028	6,398	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500
Grants and Aid	5100004	69,091	70,000	70,000	70,000	70,000	70,000	70,000	70,000	70,000
Capital Outlay	5120011	0	0	0	0	0	0	0	0	0
Total		84,634	113,500	113,500	113,500	113,500	113,500	113,500	113,500	113,500
Funding Sources										
Fund Balance	4000005	714,163	780,000		816,500	816,500	816,500	853,000	853,000	853,000
Special Revenue	4000030	150,471	150,000		150,000	150,000	150,000	150,000	150,000	150,000
Total Funding		864,634	930,000		966,500	966,500	966,500	1,003,000	1,003,000	1,003,000
Excess Appropriation/(Funding)		(780,000)	(816,500)		(853,000)	(853,000)	(853,000)	(889,500)	(889,500)	(889,500)
Grand Total		84,634	113,500		113,500	113,500	113,500	113,500	113,500	113,500

Analysis of Budget Request

Appropriation: C67 - Refunds and Reimbursements

Funding Sources: 153 - Securities Department - Cash in Bank

The Securities Department's Refunds and Reimbursements appropriation is a Cash in Bank account that is used for transfer of fee collections to State Treasury fund accounts after necessary refunds have been made. Transfers to the Treasury do not appear as expenditures.

The Agency Request provides for Base Level of \$500,000 each year of the biennium.

The Executive Recommendation provides for the Agency Request. Expenditure of appropriation is contingent upon available funding.

Appropriation Summary

Appropriation: C67 - Refunds and Reimbursements
Funding Sources: 153 - Securities Department - Cash in Bank

Historical Data

Agency Request and Executive Recommendation

Commitment Item		2013-2014	2014-2015	2014-2015	2015-2016			2016-2017		
		Actual	Budget	Authorized	Base Level	Agency	Executive	Base Level	Agency	Executive
Refunds/Reimbursements	5110014	42,079	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000
Total		42,079	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000
Funding Sources										
Fund Balance	4000005	3,000	7,860		7,860	7,860	7,860	7,860	7,860	7,860
Cash Fund	4000045	46,939	500,000		500,000	500,000	500,000	500,000	500,000	500,000
Total Funding		49,939	507,860		507,860	507,860	507,860	507,860	507,860	507,860
Excess Appropriation/(Funding)		(7,860)	(7,860)		(7,860)	(7,860)	(7,860)	(7,860)	(7,860)	(7,860)
Grand Total		42,079	500,000		500,000	500,000	500,000	500,000	500,000	500,000

Expenditure of appropriation is contingent upon available funding.