

PROPOSED CONFERENCE REPORT NO. 1
SEPTEMBER 9, 2003

AMENDED IN SENATE JULY 14, 2003

AMENDED IN ASSEMBLY APRIL 28, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 227

Introduced by Assembly Member Vargas
(Coauthor: Assembly Member Nunez)
(Coauthors: Senators Alarcon and Burton)

January 29, 2003

An act to amend Sections 63010 and 63071 of, and to add Article 8 (commencing with Section 63049.6) to Chapter 2 of Division 1 of Title 6.7 of, the Government Code, to amend Sections 985, 1063, 1063.1, 1871.4, 11656.6 and 11873 of, to add Section 11742 to, to add Article 14.26 (commencing with Section 1063.70) to Chapter 1 of Part 2 of Division 1 of, and to add and repeal Section 11735.1 of, the Insurance Code, and to amend Section 62.5 of, to add Sections 4658.5 and 4658.6 to, to repeal Section 5405.5 of, to repeal Article 2.6 (commencing with Section 4635) of Chapter 2 of Part 2 of Division 4 of, and to repeal and add Section 139.5 of, the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 227, as amended, Vargas. Workers' compensation.

(1) Existing law establishes a workers' compensation system to compensate an employee for injuries incurred arising out of or in the course of employment.

~~This bill would state the intent of the Legislature to improve the workers' compensation system by promoting the efficient delivery of high quality appropriate medical care.~~

Existing law establishes the California Insurance Guarantee Association (CIGA) for specified purposes related to the payment of the obligations of insurers. Existing law establishes the California Infrastructure and Economic Development Bank for specified purposes related to the financing of projects in the public interest. Existing law requires that entities applying for financing from the bank meet various requirements, and places certain limitations on the bank's approval of projects.

This bill would provide that a project for the financing of the costs of claims of insolvent workers' compensation insurers at the request of CIGA shall be deemed to be in the public interest and eligible for financing by the bank. It would provide that the requirements and limitations applicable to the financing of certain projects do not apply to the financing of the costs of these claims. The bill would allow the bank to issue bonds to finance these costs and would specify how the bond proceeds may be used.

(2) Existing law provides that the total amount of revenue bonds issued by the bank that may be outstanding at any one time shall not exceed \$5,000,000,000, exclusive of rate reduction bonds, as defined, and certain bonds issued by the bank to finance economic development facilities, as defined.

This bill would provide, instead, that the total amount of bonds issued by the bank to finance public development facilities, as defined, that may be outstanding at any one time shall not exceed \$5,000,000,000.

(3) Existing law requires the Insurance Commissioner to take possession of the property, business, books, records, and accounts of an insurer if it appears to the commissioner that the insurer is insolvent, and to retain them subject to a court order. Existing law requires a court, upon a filing by the commissioner showing the insolvency of an insurer, to issue an order vesting title to all of the insurer's assets in the commissioner. Existing law defines "insolvency" for these purposes to mean any impairment of minimum paid-in capital, as defined, required in the aggregate of an insurer by specified provisions of law for the classes of insurance that it transacts.

This bill would expand the definition of "insolvency" to include, in addition, an inability of the insurer to meet its financial obligations when they are due.



(4) Existing law requires CIGA to adopt a plan of operations, and any amendments thereto, as specified, and allows CIGA to borrow funds when necessary to carry out its mandate.

This bill would, in addition, allow CIGA to provide in its plan of operations for the issuance of specified financing instruments and for securing those instruments.

(5) Existing law authorizes CIGA to pay certain claims of insolvent insurers that arise as the result of a natural disaster, and allows the Department of Insurance to issue bonds for that purpose.

This bill would, in addition, in specified circumstances involving the insolvency of one or more workers' compensation insurers, authorize the board of directors of CIGA to request the California Infrastructure and Economic Development Bank to issue bonds to provide funds for the payment of covered claims and related expenses. It would require CIGA to provide the commissioner with a copy of the request, and would allow the commissioner to modify, cancel, or require a delay in the requested issuance.

The bill would require proceeds from the sale of these bonds to be deposited in a separate account in the Workers' Comp Bond Fund, which is created by these provisions, and would allow disbursements from this account only by CIGA or the trustee for the bonds, as specified.

The bill would allow CIGA to levy upon member insurers special bond assessments in the amount necessary to pay the principal and interest on the bonds, and to meet other requirements, as specified. It would require that these assessments be placed in a separate account in the Workers' Comp Bond Fund, and would provide that only the trustee for the bonds may authorize disbursements from the account.

The bill would require that any bonds issued to provide funds for covered workers' compensation claim obligations be issued before January 1, 2007, in an aggregate principal amount not to exceed \$1,500,000,000, and would provide that the bonds shall not have a final maturity date exceeding 20 years from the date of issuance.

The bill would add related provisions and make related changes.

(6) Existing law makes it a crime for any person to make false or fraudulent statements, or take certain other actions, with respect to any claim under the workers' compensation system. Existing law specifies the penalties for violating these provisions, including a fine up to \$50,000 or twice the amount of the fraud, whichever is greater.

This bill would increase this maximum fine to \$150,000 or twice the amount of the fraud, whichever is greater.



(7) Existing law authorizes an insurer to issue a workers' compensation policy insuring an organization or association of employers subject to specified conditions, including requirements that the organization or association file certain documents with the commissioner or a licensed workers' compensation rating organization relating to (a) the percentage of its membership engaged in a common trade or business, and (b) the naming in certain statements of members eligible for insurance. Existing law defines the term "common trade or business" for purposes of these provisions.

This bill would expand the definition of "common trade or business" to include specified types of manufacturing facilities.

(8) Existing law regulates rates of workers' compensation insurers. Existing law requires rates to be adequate to cover an insurer's losses and expenses, and provides that they shall not tend to create a monopoly. Existing law prohibits rates that are unfairly discriminatory. Existing law requires workers' compensation insurers to adhere to a uniform experience rating plan filed with the Insurance Commissioner by a rating organization designated by the commissioner. Existing law requires insurers to file all rates with the commissioner.

This bill would require the Insurance Commissioner, in determining the advisory pure premium rates for policies incepting on or after January 1, 2004, to take into account projected savings due to changes enacted in the 2003 Regular Session. The bill would require insurers to file rates to apply to policies incepting on or after January 1, 2004, that include the provision for projected savings determined by the insurance commissioner, as specified. The bill would provide that these provisions shall remain in effect until January 1, 2005.

This bill would require the Insurance Commissioner, on or before July 1, 2004, to establish and maintain, on the Internet Web site maintained by the Department of Insurance, an online rate comparison guide showing workers' compensation insurance rates for the 50 insurance companies writing the highest volume of business in this line during the 2 preceding years, and other specified information.

The bill would require the rating organization designated by the commissioner as his or her statistical agent to determine the cost savings achieved in the 2003 workers' compensation reform legislation, and would require each insurer to certify that its rates reflect those cost savings. It would require that the certifications be made available on the department's Internet Web site.



(9) Existing law provides that the State Compensation Insurance Fund is to be administered for the purpose of transacting specified forms of insurance, including workers' compensation insurance. Existing law requires the board of directors of the fund to establish the rates to be charged by the fund, as specified, and provides that those rates are subject to certain regulatory provisions.

Existing law exempts the State Compensation Insurance Fund from specified provisions of law applicable to other state agencies generally.

This bill would provide that the positions funded by the State Compensation Insurance Fund are exempt from any hiring freezes and staff cutbacks otherwise required by law.

(10) Existing law establishes the Workers' Compensation Administration Revolving Fund as a special account in the State Treasury and moneys in the fund may be expended by the Department of Industrial Relations, upon appropriation by the Legislature, for the administration of the workers' compensation program. Existing law requires that 80% of the costs of the program be borne by the General Fund and 20% of the costs of the program be borne by the employers through assessments levied by the Director of Industrial Relations.

This bill would instead require that employer assessments account for the total costs of the program. It would also specify that it is the intent of the Legislature that a sufficient portion of the fund be allocated to certain priority initiatives.

This bill would state the findings and declarations of the Legislature that to ensure that injured workers are fairly treated, receive prompt and adequate disability benefits, and have access to quality health care, a stable and predictable workers' compensation system is required. Accordingly, the bill would require the Commission on Health Safety and Workers' Compensation to study and report to the Legislature the feasibility of reinstating a minimum rate regulatory structure for the workers' compensation insurance market, to be phased in over a 5-year period.

(11) Existing law provides for the payment of temporary disability indemnity payments to any injured employee under specified circumstances.

This bill would provide, with specified exceptions, that if an injury causes permanent partial disability and the injured employee does not return to work for the employer within 60 days of the termination of temporary disability indemnity payments, the injured employee shall receive a supplemental job displacement benefit, as specified. The bill



would specify that these provisions shall apply to injuries occurring on and after January 1, 2004.

(12) The bill would declare that it would not become operative unless SB 228 is enacted on or before January 1, 2004.

(13) The bill would provide that its provisions are severable.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~—yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. It is the intent of the Legislature to improve the~~
2 SECTION 1. Section 63010 of the Government Code is
3 amended to read:
4 63010. For purposes of this division, the following words and
5 terms shall have the following meanings unless the context clearly
6 indicates or requires another or different meaning or intent:
7 (a) “Act” means the Bergeson-Peace Infrastructure and
8 Economic Development Bank Act.
9 (b) “Bank” means the California Infrastructure and Economic
10 Development Bank.
11 (c) “Board” or “bank board” means the Board of Directors of
12 the California Infrastructure and Economic Development Bank.
13 (d) “Bond purchase agreement” means a contractual
14 agreement executed between the bank and a sponsor, or a special
15 purpose trust authorized by the bank or a sponsor, or both, whereby
16 the bank or special purpose trust authorized by the bank agrees to
17 purchase bonds of the sponsor for retention or sale.
18 (e) “Bonds” means bonds, including structured, senior, and
19 subordinated bonds or other securities; loans; notes, including
20 bond, revenue, tax or grant anticipation notes; commercial paper;
21 floating rate and variable maturity securities; and any other
22 evidences of indebtedness or ownership, including certificates of
23 participation or beneficial interest, asset backed certificates, or
24 lease-purchase or installment purchase agreements, whether
25 taxable or excludable from gross income for federal income
26 taxation purposes.
27 (f) “Cost,” as applied to a project or portion thereof financed
28 under this division, means all or any part of the cost of
29 construction, renovation, and acquisition of all lands, structures,
30 real or personal property, rights, rights-of-way, franchises,



1 licenses, easements, and interests acquired or used for a project;
2 the cost of demolishing or removing any buildings or structures on
3 land so acquired, including the cost of acquiring any lands to which
4 the buildings or structures may be moved; the cost of all
5 machinery, equipment, and financing charges; interest prior to,
6 during, and for a period after completion of construction,
7 renovation, or acquisition, as determined by the bank; provisions
8 for working capital; reserves for principal and interest and for
9 extensions, enlargements, additions, replacements, renovations,
10 and improvements; and the cost of architectural, engineering,
11 financial and legal services, plans, specifications, estimates,
12 administrative expenses, and other expenses necessary or
13 incidental to determining the feasibility of any project or
14 incidental to the construction, acquisition, or financing of any
15 project, and transition costs in the case of an electrical corporation.

16 (g) “Economic development facilities” means real and
17 personal property, structures, buildings, equipment, and
18 supporting components thereof that are used to provide industrial,
19 recreational, research, commercial, utility, or service enterprise
20 facilities, community, educational, cultural, or social welfare
21 facilities and any parts or combinations thereof, and all facilities
22 or infrastructure necessary or desirable in connection therewith,
23 including provision for working capital, but shall not include any
24 housing.

25 (h) “Electrical corporation” has the meaning set forth in
26 Section 218 of the Public Utilities Code.

27 (i) “Executive director” means the Executive Director of the
28 California Infrastructure and Economic Development Bank
29 appointed pursuant to Section 63021.

30 (j) “Financial assistance” in connection with a project,
31 includes, but is not limited to, any combination of grants, loans, the
32 proceeds of bonds issued by the bank or special purpose trust,
33 insurance, guarantees or other credit enhancements or liquidity
34 facilities, and contributions of money, property, labor, or other
35 things of value, as may be approved by resolution of the board or
36 the sponsor, or both; the purchase or retention of bank bonds, the
37 bonds of a sponsor for their retention or for sale by the bank, or the
38 issuance of bank bonds or the bonds of a special purpose trust used
39 to fund the cost of a project for which a sponsor is directly or
40 indirectly liable, including, but not limited to, bonds, the security



1 for which is provided in whole or in part pursuant to the powers
2 granted by Section 63025; bonds for which the bank has provided
3 a guarantee or enhancement, including, but not limited to, the
4 purchase of the subordinated bonds of the sponsor, the
5 subordinated bonds of a special purpose trust, or the retention of
6 the subordinated bonds of the bank pursuant to Chapter 4
7 (commencing with Section 63060); or any other type of assistance
8 deemed appropriate by the bank or the sponsor, except that no
9 direct loans shall be made to nonpublic entities other than in
10 connection with the issuance of rate reduction bonds pursuant to
11 a financing order or in connection with a financing for an
12 economic development facility.

13 For purposes of this subdivision, “grant” does not include
14 grants made by the bank except when acting as an agent or
15 intermediary for the distribution or packaging of financing
16 available from federal, private, or other public sources.

17 (k) “Financing order” has the meaning set forth in Section 840
18 of the Public Utilities Code.

19 (l) “Guarantee trust fund” means the California Infrastructure
20 Guarantee Trust Fund.

21 (m) “Infrastructure bank fund” means the California
22 Infrastructure and Economic Development Bank Fund.

23 (n) “Loan agreement” means a contractual agreement
24 executed between the bank or a special purpose trust and a sponsor
25 that provides that the bank or special purpose trust will loan funds
26 to the sponsor and that the sponsor will repay the principal and pay
27 the interest and redemption premium, if any, on the loan.

28 (o) “Participating party” means any person, company,
29 corporation, *association, state or municipal governmental entity,*
30 partnership, firm, or other entity or group of entities, whether
31 organized for profit or not for profit, engaged in business or
32 operations within the state and that applies for financing from the
33 bank in conjunction with a sponsor for the purpose of
34 implementing a project. However, in the case of a project relating
35 to the financing of transition costs or the acquisition of transition
36 property, or both, on the request of an electrical corporation, or in
37 connection with a financing for an economic development facility,
38 *or for the financing of insurance claims,* the participating party
39 shall be deemed to be the same entity as the sponsor for the
40 financing.



1 (p) “Project” means designing, acquiring, planning,
2 permitting, entitling, constructing, improving, extending,
3 restoring, financing, and generally developing public
4 development facilities or economic development facilities within
5 the state or financing transition costs or the acquisition of
6 transition property, or both, upon approval of a financing order by
7 the Public Utilities Commission, as provided in Article 5.5
8 (commencing with Section 840) of Chapter 4 of Part 1 of Division
9 1 of the Public Utilities Code.

10 (q) “Public development facilities” means real and personal
11 property, structures, conveyances, equipment, thoroughfares,
12 buildings, and supporting components thereof, excluding any
13 housing, that are directly related to providing the following:

14 (1) “City streets” including any street, avenue, boulevard,
15 road, parkway, drive, or other way that is any of the following:

16 (A) An existing municipal roadway.

17 (B) Is shown upon a plat approved pursuant to law and includes
18 the land between the street lines, whether improved or
19 unimproved, and may comprise pavement, bridges, shoulders,
20 gutters, curbs, guardrails, sidewalks, parking areas, benches,
21 fountains, plantings, lighting systems, and other areas within the
22 street lines, as well as equipment and facilities used in the cleaning,
23 grading, clearance, maintenance, and upkeep thereof.

24 (2) “County highways” including any county highway as
25 defined in Section 25 of the Streets and Highways Code, that
26 includes the land between the highway lines, whether improved or
27 unimproved, and may comprise pavement, bridges, shoulders,
28 gutters, curbs, guardrails, sidewalks, parking areas, benches,
29 fountains, plantings, lighting systems, and other areas within the
30 street lines, as well as equipment and facilities used in the cleaning,
31 grading, clearance, maintenance, and upkeep thereof.

32 (3) “Drainage, water supply, and flood control” including, but
33 not limited to, ditches, canals, levees, pumps, dams, conduits,
34 pipes, storm sewers, and dikes necessary to keep or direct water
35 away from people, equipment, buildings, and other protected areas
36 as may be established by lawful authority, as well as the
37 acquisition, improvement, maintenance, and management of
38 floodplain areas and all equipment used in the maintenance and
39 operation of the foregoing.

1 (4) “Educational facilities” including libraries, child care
2 facilities, including, but not limited to, day care facilities, and
3 employment training facilities.

4 (5) “Environmental mitigation measures” including required
5 construction or modification of public infrastructure and purchase
6 and installation of pollution control and noise abatement
7 equipment.

8 (6) “Parks and recreational facilities” including local parks,
9 recreational property and equipment, parkways and property.

10 (7) “Port facilities” including docks, harbors, ports of entry,
11 piers, ships, small boat harbors and marinas, and any other
12 facilities, additions, or improvements in connection therewith.

13 (8) “Power and communications” including facilities for the
14 transmission or distribution of electrical energy, natural gas, and
15 telephone and telecommunications service.

16 (9) “Public transit” including air and rail transport of goods,
17 airports, guideways, vehicles, rights-of-way, passenger stations,
18 maintenance and storage yards, and related structures, including
19 public parking facilities, equipment used to provide or enhance
20 transportation by bus, rail, ferry, or other conveyance, either
21 publicly or privately owned, that provides to the public general or
22 special service on a regular and continuing basis.

23 (10) “Sewage collection and treatment” including pipes,
24 pumps, and conduits that collect wastewater from residential,
25 manufacturing, and commercial establishments, the equipment,
26 structures, and facilities used in treating wastewater to reduce or
27 eliminate impurities or contaminants, and the facilities used in
28 disposing of, or transporting, remaining sludge, as well as all
29 equipment used in the maintenance and operation of the foregoing.

30 (11) “Solid waste collection and disposal” including vehicles,
31 vehicle-compatible waste receptacles, transfer stations, recycling
32 centers, sanitary landfills, and waste conversion facilities
33 necessary to remove solid waste, except that which is hazardous
34 as defined by law, from its point of origin.

35 (12) “Water treatment and distribution” including facilities in
36 which water is purified and otherwise treated to meet residential,
37 manufacturing, or commercial purposes and the conduits, pipes,
38 and pumps that transport it to places of use.



1 (13) “Defense conversion” including, but not limited to,
2 facilities necessary for successfully converting military bases
3 consistent with an adopted base reuse plan.

4 (14) “Public safety facilities” including, but not limited to,
5 police stations, fire stations, court buildings, jails, juvenile halls,
6 and juvenile detention facilities.

7 (15) “State highways” including any state highway as
8 described in Chapter 2 (commencing with Section 230) of
9 Division 1 of the Streets and Highways Code, and the related
10 components necessary for safe operation of the highway.

11 (r) “Rate reduction bonds” has the meaning set forth in Section
12 840 of the Public Utilities Code.

13 (s) “Revenues” means all receipts, purchase payments, loan
14 repayments, lease payments, and all other income or receipts
15 derived by the bank or a sponsor from the sale, lease, or other
16 financing arrangement undertaken by the bank, a sponsor or a
17 participating party, including, but not limited to, all receipts from
18 a bond purchase agreement, and any income or revenue derived
19 from the investment of any money in any fund or account of the
20 bank or a sponsor and any receipts derived from transition
21 property. Revenues shall not include moneys in the General Fund
22 of the state.

23 (t) “Special purpose trust” means a trust, partnership, limited
24 partnership, association, corporation, nonprofit corporation, or
25 other entity authorized under the laws of the state to serve as an
26 instrumentality of the state to accomplish public purposes and
27 authorized by the bank to acquire, by purchase or otherwise, for
28 retention or sale, the bonds of a sponsor or of the bank made or
29 entered into pursuant to this division and to issue special purpose
30 trust bonds or other obligations secured by these bonds or other
31 sources of public or private revenues. Special purpose trust also
32 means any entity authorized by the bank to acquire transition
33 property or to issue rate reduction bonds, or both, subject to the
34 approvals by the bank and powers of the bank as are provided by
35 the bank in its resolution authorizing the entity to issue rate
36 reduction bonds.

37 (u) “Sponsor” means any subdivision of the state or local
38 government including departments, agencies, commissions,
39 cities, counties, nonprofit corporations formed on behalf of a
40 sponsor, special districts, assessment districts, and joint powers



1 authorities within the state or any combination of these
2 subdivisions that makes an application to the bank for financial
3 assistance in connection with a project in a manner prescribed by
4 the bank. This definition shall not be construed to require that an
5 applicant have an ownership interest in the project. In addition, an
6 electrical corporation shall be deemed to be the sponsor as well as
7 the participating party for any project relating to the financing of
8 transition costs and the acquisition of transition property on the
9 request of the electrical corporation and any person, company,
10 corporation, partnership, firm, or other entity or group engaged in
11 business or operation within the state that applies for financing of
12 any economic development facility, shall be deemed to be the
13 sponsor as well as the participating party for the project relating to
14 the financing of that economic development facility.

15 (v) “State” means the State of California.

16 (w) “Transition costs” has the meaning set forth in Section 840
17 of the Public Utilities Code.

18 (x) “Transition property” has the meaning set forth in Section
19 840 of the Public Utilities Code.

20 *SEC. 2. Article 8 (commencing with Section 63049.6) is*
21 *added to Chapter 2 of Division 1 of Title 6.7 of the Government*
22 *Code, to read:*

23

24 *Article 8. Financing of Insurance Claims*

25

26 *63049.6. For purposes of this article, the following terms*
27 *have the following meanings, in addition to the definitions*
28 *contained in Section 63010, unless the context clearly indicates or*
29 *requires another meaning:*

30 (a) “Association” means the California Insurance Guaranty
31 Association created pursuant to Article 14.2 (commencing with
32 Section 1063) of Chapter 1 of Part 2 of Division 1 of the Insurance
33 Code.

34 (b) “Department” means the Department of Insurance.

35 (c) “Fund” means the Insurance Assessment Bond Fund
36 created by Section 1063.72 of the Insurance Code.

37 *63049.62. Notwithstanding any other provision of this*
38 *division, a financing of the costs of claims of insolvent insurers*
39 *upon the request of the association pursuant to Section 1063.73 of*
40 *the Insurance Code shall be deemed to be in the public interest and*



1 eligible for financing by the bank, and Article 3 (commencing with
2 Section 63041), Article 4 (commencing with Section 63042),
3 Article 5 (commencing with Section 63043), Article 6
4 (commencing with Section 63048), and Article 7 (commencing
5 with Section 63049) shall not apply to the financing provided by
6 the bank to, or at the request of, the association or the department
7 in connection with the fund. Notwithstanding any other provision
8 of this division, the bank shall have no authority over any matter
9 that is subject to the approval of the Insurance Commissioner
10 under Article 14.2 (commencing with Section 1063) of Chapter 1
11 of Part 2 of Division 1 of the Insurance Code.

12 63049.64. (a) The bank may issue bonds pursuant to Chapter
13 5 (commencing with Section 63070) and may loan the proceeds
14 thereof to the association, and deposit the proceeds into a separate
15 account in the fund, or use the proceeds to refund bonds previously
16 issued under this article. Bond proceeds may also be used to fund
17 necessary reserves, capitalized interest, credit enhancement costs,
18 or costs of issuance.

19 (b) Bonds issued under this article shall not be deemed to
20 constitute a debt or liability of the state or of any political
21 subdivision thereof, other than the bank, or a pledge of the faith
22 and credit of the state or of any political subdivision, but shall be
23 payable solely from the fund and other revenues and assets
24 securing the bonds. All bonds issued under this article shall
25 contain on the face of the bonds a statement to that effect.

26 (c) For purposes of this article, the term “project,” as defined
27 in subdivision (p) of Section 63010, shall include financing of the
28 costs of claims of insolvent workers’ compensation insurers, in an
29 amount (together with associated costs of financing) that may be
30 determined by the association in making a request for financing to
31 the bank.

32 63049.66. The fund, and any other fund or account
33 established pursuant to the issuance of bonds authorized by this
34 article may be invested in any investment authorized pursuant to
35 Section 63062, and any such fund or account shall be established
36 outside of the centralized treasury system. The bank shall select as
37 trustee for the bonds a corporation or banking association
38 authorized to exercise corporate trust powers.

39 SEC. 3. Section 63071 of the Government Code is amended to
40 read:



1 63071. (a) Notwithstanding any other provision of law, but
2 consistent with Sections 1 and 18 of Article XVI of the California
3 Constitution, a sponsor may issue bonds for purchase by the bank
4 pursuant to a bond purchase agreement. The bank may issue bonds
5 or authorize a special purpose trust to issue bonds. These bonds
6 may be issued pursuant to the charter of any city or any city and
7 county that authorized the issuance of these bonds as a sponsor and
8 may also be issued by any sponsor pursuant to the Revenue Bond
9 Law of 1941 (Chapter 6 (commencing with Section 54300) of
10 Division 2 of Title 5) to pay the costs and expenses pursuant to this
11 title, subject to the following conditions:

12 (1) With the prior approval of the bank, the sponsor may sell
13 these bonds in any manner as it may determine, either by private
14 sale or by means of competitive bid.

15 (2) Notwithstanding Section 54418, the bonds may be sold at
16 a discount at any rate as the bank and sponsor shall determine.

17 (3) Notwithstanding Section 54402, the bonds shall bear
18 interest at any rate and be payable at any time as the sponsor shall
19 determine with the consent of the bank.

20 (b) The total amount of bonds *issued to finance public*
21 *development facilities* that may be outstanding at any one time
22 under this chapter shall not exceed five billion dollars
23 (\$5,000,000,000), ~~exclusive of rate reduction bonds and bonds~~
24 ~~issued by the bank pursuant to Article 5 (commencing with Section~~
25 ~~63043) of Chapter 2 to finance economic development facilities.~~
26 The total amount of rate reduction bonds that may be outstanding
27 at any one time under this chapter shall not exceed ten billion
28 dollars (\$10,000,000,000).

29 (c) Bonds for which moneys or securities have been deposited
30 in trust, in amounts necessary to pay or redeem the principal,
31 interest, and any redemption premium thereon, shall be deemed
32 not to be outstanding for purposes of this section.

33 *SEC. 4. Section 985 of the Insurance Code is amended to*
34 *read:*

35 985. (a) On or after January 1, 1970, as used in this article and
36 in subdivision (i) of Section 1011, “insolvency” means ~~any~~ *either*
37 *of the following:*

38 (1) Any impairment of minimum “paid-in capital” or “capital
39 paid in,” as defined in Section 36, required in the aggregate of an



1 insurer by the provisions of this code for the class, or classes, of
2 insurance ~~which that~~ it transacts anywhere.

3 (2) *An inability of the insurer to meet its financial obligations*
4 *when they are due.*

5 (b) On or after January 1, 1970, an insurer cannot escape the
6 condition of insolvency by being able to provide for all its
7 liabilities and for reinsurance of all outstanding risks. An insurer
8 must also be possessed of additional assets equivalent to such
9 aggregate “paid-in capital” or “capital paid in” required by this
10 code after making provision for all such liabilities and for such
11 reinsurance.

12 (c) On or after October 1, 1967, as used in this code provision
13 for reinsurance of all outstanding risks and “gross premiums
14 without any deduction, received and receivable upon all unexpired
15 risks” means the greater of: (1) the aggregate amount of actual
16 unearned premiums, or (2) the amount reasonably estimated as
17 being required to reinsure in a solvent admitted insurer the
18 unexpired terms of the risks represented by all outstanding
19 policies.

20 (d) On or after October 1, 1967, an insurer must make provision
21 for reinsurance of the outstanding risk on policies ~~which that~~
22 provide premiums are fully earned at inception and on policies
23 ~~which that~~ for any other reason do not provide for a return
24 premium to the insured on cancellation prior to expiration.

25 (e) On or after October 1, 1967, the commissioner shall
26 prescribe standards for reasonably estimating the amount required
27 to reinsure ~~which that~~ will provide adequate safeguards for the
28 policyholders, creditors and the public.

29 (f) On or after October 1, 1967, this section shall not be
30 applicable to life, title, mortgage or mortgage guaranty insurers.

31 (g) In the application of this section to disability insurance, as
32 defined in Section 106, reserves for unearned premiums and
33 amounts reasonably estimated as required to reinsure outstanding
34 risks shall be determined in accordance with the provisions of
35 Section 997.

36 *SEC. 5. Section 1063 of the Insurance Code is amended to*
37 *read:*

38 1063. (a) Within 60 days after the original effective date of
39 this article, all insurers, including reciprocal insurers, admitted to
40 transact insurance in this state of any or all of the following classes



1 only in accordance with the provisions of Chapter 1 (commencing
2 with Section 100) of Part 1 of this division: fire (see Section 102),
3 marine (see Section 103), plate glass (see Section 107), liability
4 (see Section 108), workers' compensation (see Section 109),
5 common carrier liability (see Section 110), boiler and machinery
6 (see Section 111), burglary (see Section 112), sprinkler (see
7 Section 114), team and vehicle (see Section 115), automobile (see
8 Section 116), aircraft (see Section 118), and miscellaneous (see
9 Section 120), shall establish the California Insurance Guarantee
10 Association (the association); provided, however, this article shall
11 not apply to the following classes or kinds of insurance: life and
12 annuity (see Section 101), title (see Section 104), fidelity or surety
13 including fidelity or surety bonds, or any other bonding
14 obligations (see Section 105), disability or health (see Section
15 106), credit (see Section 113), mortgage (see Section 117),
16 mortgage guaranty, insolvency or legal (see Section 119),
17 financial guaranty or other forms of insurance offering protection
18 against investment risks (see Section 124), the ocean marine
19 portion of any marine insurance or ocean marine coverage under
20 any insurance policy including the following: the Jones Act (46
21 U.S.C. Sec. 688), the Longshore and Harbor Workers'
22 Compensation Act (33 U.S.C. Sec. 901 et seq.), or any other
23 similar federal statutory enactment, or any endorsement or policy
24 affording protection and indemnity coverage, or reinsurance as
25 defined in Section 620, or fraternal fire insurance written by
26 associations organized and operating under Sections 9080 to 9103,
27 inclusive. Any insurer admitted to transact only those classes or
28 kinds of insurance excluded from this article shall not be a member
29 insurer of the association. Each ~~such~~ insurer *admitted to transact*
30 *a class of insurance included in this article*, including the State
31 Compensation Insurance Fund, as a condition of its authority to
32 transact insurance in this state, shall participate in the association
33 whether established voluntarily or by order of the commissioner
34 after the elapse of 60 days following the original effective date of
35 this article in accordance with rules to be established as provided
36 in this article. It shall be the purpose of the association to provide
37 for each member insurer insolvency insurance as defined in
38 Section 119.5.

39 (b) The association shall be managed by a board of governors,
40 composed of nine member insurers, each of which shall be



1 appointed by the commissioner to serve initially for terms of one,
2 two, or three years and thereafter for three-year terms so that three
3 terms shall expire each year on December 31, and shall continue
4 in office until his or her successor shall be appointed and qualified.
5 At least five members of the board shall be domestic insurers. At
6 least three ~~such~~ *of the* members shall be stock insurers, and at least
7 three shall be nonstock insurers. The nine members shall be
8 representative, as nearly as possible, of the classes of insurance and
9 of the kinds of insurers covered by this article. In case of a vacancy
10 for any reason on the board, the commissioner shall appoint a
11 member insurer to fill the unexpired term. In addition to the nine
12 member insurers, the membership of the board shall also include
13 one public member appointed by the President pro Tempore of the
14 Senate, one public member appointed by the Speaker of the
15 Assembly, one business member appointed by the commissioner,
16 and one labor member appointed by the commissioner.

17 (c) The association shall adopt a plan of operations, and any
18 amendments thereto, not inconsistent with the provisions of this
19 article, necessary to assure the fair, reasonable, and equitable
20 manner of administering the association, and to provide for other
21 matters as are necessary or advisable to implement the provisions
22 of this article. The plan of operations and any amendments thereto
23 shall be subject to prior written approval by the commissioner. All
24 members of the association shall adhere to the plan of operation.

25 (d) If for any reason the association fails to adopt a suitable plan
26 of operation within 90 days following the original effective date
27 of this article, or if at any time thereafter the association fails to
28 adopt suitable amendments to the plan of operation, the
29 commissioner shall after hearing adopt and promulgate reasonable
30 rules as are necessary or advisable to effectuate the provisions of
31 this chapter. These rules shall continue in force until modified by
32 the commissioner after hearing or superseded by a plan of
33 operation, adopted by the association and approved by the
34 commissioner.

35 (e) In accordance with its plan of operation, the association
36 may designate one or more of its members as a servicing facility,
37 but a member may decline this designation. Each servicing facility
38 shall be reimbursed by the association for all reasonable expenses
39 it incurs and for all payments it makes on behalf of the association.
40 Each servicing facility shall have authority to perform any



1 functions of the association that the board of governors lawfully
2 may delegate to it and to do so on behalf of and in the name of the
3 association. The designation of servicing facilities shall be subject
4 to the approval of the commissioner.

5 (f) The association shall have authority to borrow funds when
6 necessary to effectuate the provisions of this article, *and may*
7 *provide in its plan of operations for any of the following:*

8 (1) *The issuance of notes, bonds, or debentures, or the*
9 *establishment of a special purpose trust or other entity, solely for*
10 *the purpose of facilitating a financing.*

11 (2) *The securing of that borrowing or those notes, bonds, or*
12 *debentures by pledging or granting liens or mortgages, or by*
13 *otherwise encumbering its real or personal property, including,*
14 *but not limited to, premiums levied under Section 1063.5.*

15 (g) The association, either in its own name or through servicing
16 facilities, may be sued and may use the courts to assert or defend
17 any rights the association may have by virtue of this article as
18 reasonably necessary to fully effectuate the provisions thereof.

19 (h) The association shall have the right to intervene as a party
20 in any proceeding instituted pursuant to Section 1016 wherein
21 liquidation of a member insurer as defined in Section 1063.1 is
22 sought.

23 (i) (1) The association shall have an annual audit of its
24 financial condition conducted by an independent certified public
25 accountant. The audit shall be conducted, to the extent possible, in
26 accordance with generally accepted auditing standards (GAAS)
27 and the report of the audit shall be submitted to the commissioner.

28 (2) The association shall annually audit at least one-third of the
29 service companies retained by the association to adjust claims of
30 insolvent insurers. The audits shall (A) assure that all covered
31 claims are being investigated, adjusted, and paid in accordance
32 with customary industry standards and practices and all applicable
33 statutes, rules and regulations, and (B) examine the management
34 and supervisory systems overseeing the claims functions. The
35 audits shall be conducted by the association or an independent
36 auditor, provided that the three largest service companies, as
37 measured by the number of claims processed for the association
38 during the previous three fiscal years, shall be audited by an
39 independent auditor at least once every three years. The
40 association shall implement systems to retain independent



1 auditing firms for the purpose of this paragraph, provided that no
2 one firm is designated or utilized as an exclusive provider. Audits
3 conducted pursuant to this paragraph shall be submitted annually
4 to the commissioner for review.

5 (j) The commissioner shall examine the association to the same
6 extent as, and in accordance with, the requirements of Article 4
7 (commencing with Section 730) of Chapter 1 of Part 2 of Division
8 2, which sets forth the examination requirements applicable to
9 admitted insurers. A copy of the examination report shall be filed
10 with the Chairpersons of the Senate and Assembly Committees on
11 Insurance no later than December 31 of the year the report is
12 completed.

13 *SEC. 6. Section 1063.1 of the Insurance Code is amended to*
14 *read:*

15 1063.1. As used in this article:

16 (a) “Member insurer” means an insurer required to be a
17 member of the association in accordance with subdivision (a) of
18 Section 1063, except and to the extent that the insurer is
19 participating in an insolvency program adopted by the United
20 States government.

21 (b) “Insolvent insurer” means a member insurer against which
22 an order of liquidation or receivership with a finding of insolvency
23 has been entered by a court of competent jurisdiction.

24 (c) (1) “Covered claims” means the obligations of an
25 insolvent insurer, including the obligation for unearned premiums,
26 (i) imposed by law and within the coverage of an insurance policy
27 of the insolvent insurer; (ii) which were unpaid by the insolvent
28 insurer; (iii) which are presented as a claim to the liquidator in this
29 state or to the association on or before the last date fixed for the
30 filing of claims in the domiciliary liquidating proceedings; (iv)
31 which were incurred prior to the date coverage under the policy
32 terminated and prior to, on, or within 30 days after the date the
33 liquidator was appointed; (v) for which the assets of the insolvent
34 insurer are insufficient to discharge in full; (vi) in the case of a
35 policy of workers’ compensation insurance, to provide workers’
36 compensation benefits under the workers’ compensation law of
37 this state; and (vii) in the case of other classes of insurance if the
38 claimant or insured is a resident of this state at the time of the
39 insured occurrence, or the property from which the claim arises is
40 permanently located in this state.



1 (2) “Covered claims” also include the obligations assumed by
2 an assuming insurer from a ceding insurer where the assuming
3 insurer subsequently becomes an insolvent insurer if, at the time
4 of the insolvency of the assuming insurer, the ceding insurer is no
5 longer admitted to transact business in this state. Both the
6 assuming insurer and the ceding insurer shall have been member
7 insurers at the time the assumption was made. “Covered claims”
8 under this paragraph shall be required to satisfy the requirements
9 of subparagraphs (i) to (vii), inclusive, of paragraph (1), except for
10 the requirement that the claims be against policies of the insolvent
11 insurer. The association shall have a right to recover any deposit,
12 bond, or other assets that may have been required to be posted by
13 the ceding company to the extent of covered claim payments and
14 shall be subrogated to any rights the policyholders may have
15 against the ceding insurer.

16 (3) “Covered claims” does not include obligations arising
17 from the following:

- 18 (i) Life, annuity, health, or disability insurance.
- 19 (ii) Mortgage guaranty, financial guaranty, or other forms of
20 insurance offering protection against investment risks.
- 21 (iii) Fidelity or surety insurance including fidelity or surety
22 bonds, or any other bonding obligations.
- 23 (iv) Credit insurance.
- 24 (v) Title insurance.
- 25 (vi) Ocean marine insurance or ocean marine coverage under
26 any insurance policy including claims arising from the following:
27 the Jones Act (46 U.S.C.A. Sec. 688), the Longshore and Harbor
28 Workers’ Compensation Act (33 U.S.C.A. Sec. 901 et seq.), or any
29 other similar federal statutory enactment, or any endorsement or
30 policy affording protection and indemnity coverage.
- 31 (vii) Any claims servicing agreement or insurance policy
32 providing retroactive insurance of a known loss or losses, except
33 a special excess workers’ compensation policy issued pursuant to
34 subdivision (c) of Section 3702.8 of the Labor Code that covers all
35 or any part of workers’ compensation liabilities of an employer
36 that is issued, or was previously issued, a certificate of consent to
37 self-insure pursuant to subdivision (b) of Section 3700 of the
38 Labor Code.

39 (4) “Covered claims” does not include any obligations of the
40 insolvent insurer arising out of any reinsurance contracts, nor any



1 obligations incurred after the expiration date of the insurance
2 policy or after the insurance policy has been replaced by the
3 insured or canceled at the insured's request, or after the insurance
4 policy has been canceled by the association as provided in this
5 chapter, or after the insurance policy has been canceled by the
6 liquidator, nor any obligations to any state or to the federal
7 government.

8 (5) "Covered claims" does not include any obligations to
9 insurers, insurance pools, or underwriting associations, nor their
10 claims for contribution, indemnity, or subrogation, equitable or
11 otherwise, except as otherwise provided in this chapter.

12 An insurer, insurance pool, or underwriting association may not
13 maintain, in its own name or in the name of its insured, any claim
14 or legal action against the insured of the insolvent insurer for
15 contribution, indemnity or by way of subrogation, except insofar
16 as, and to the extent only, that the claim exceeds the policy limits
17 of the insolvent insurer's policy. In those claims or legal actions,
18 the insured of the insolvent insurer is entitled to a credit or setoff
19 in the amount of the policy limits of the insolvent insurer's policy,
20 or in the amount of the limits remaining, where those limits have
21 been diminished by the payment of other claims.

22 (6) "Covered claims," except in cases involving a claim for
23 workers' compensation benefits or for unearned premiums, does
24 not include any claim in an amount of one hundred dollars (\$100)
25 or less, nor that portion of any claim that is in excess of any
26 applicable limits provided in the insurance policy issued by the
27 insolvent insurer.

28 (7) "Covered claims" does not include that portion of any
29 claim, other than a claim for workers' compensation benefits, that
30 is in excess of five hundred thousand dollars (\$500,000).

31 (8) "Covered claims" does not include any amount awarded as
32 punitive or exemplary damages, *nor any amount awarded by the*
33 *Workers' Compensation Appeals Board pursuant to Section 5814*
34 *or 5814.5 because payment of compensation was unreasonably*
35 *delayed or refused by the insolvent insurer.*

36 (9) "Covered claims" does not include (i) any claim to the
37 extent it is covered by any other insurance of a class covered by this
38 article available to the claimant or insured nor (ii) any claim by any
39 person other than the original claimant under the insurance policy
40 in his or her own name, his or her assignee as the person entitled



1 thereto under a premium finance agreement as defined in Section
2 673 and entered into prior to insolvency, his or her executor,
3 administrator, guardian or other personal representative or trustee
4 in bankruptcy and does not include any claim asserted by an
5 assignee or one claiming by right of subrogation, except as
6 otherwise provided in this chapter.

7 (10) “Covered claims” does not include any obligations
8 arising out of the issuance of an insurance policy written by the
9 separate division of the State Compensation Insurance Fund
10 pursuant to Sections 11802 and 11803.

11 (11) “Covered claims” does not include any obligations of the
12 insolvent insurer arising from any policy or contract of insurance
13 issued or renewed prior to the insolvent insurer’s admission to
14 transact insurance in the State of California.

15 (12) “Covered claims” does not include surplus deposits of
16 subscribers as defined in Section 1374.1.

17 (d) “Admitted to transact insurance in this state” means an
18 insurer possessing a valid certificate of authority issued by the
19 department.

20 (e) “Affiliate” means a person who directly or indirectly,
21 through one or more intermediaries, controls, is controlled by, or
22 is under common control with an insolvent insurer on December
23 31 of the year next preceding the date the insurer becomes an
24 insolvent insurer.

25 (f) “Control” means the possession, direct or indirect, of the
26 power to direct or cause the direction of the management and
27 policies of a person, whether through the ownership of voting
28 securities, by contract other than a commercial contract for goods
29 or nonmanagement services, or otherwise, unless the power is the
30 result of an official position with or corporate office held by the
31 person. Control is presumed to exist if any person, directly or
32 indirectly, owns, controls, holds with the power to vote, or holds
33 proxies representing, 10 percent or more of the voting securities
34 of any other person. This presumption may be rebutted by showing
35 that control does not in fact exist.

36 (g) “Claimant” means any insured making a first party claim
37 or any person instituting a liability claim; provided that no person
38 who is an affiliate of the insolvent insurer may be a claimant.

39 (h) “Ocean marine insurance” includes marine insurance as
40 defined in Section 103, except for inland marine insurance, as well



1 as any other form of insurance, regardless of the name, label, or
2 marketing designation of the insurance policy, that insures against
3 maritime perils or risks and other related perils or risks, which are
4 usually insured against by traditional marine insurance such as hull
5 and machinery, marine builders' risks, and marine protection and
6 indemnity. Those perils and risks insured against include, without
7 limitation, loss, damage, or expense or legal liability of the insured
8 arising out of or incident to ownership, operation, chartering,
9 maintenance, use, repair, or construction of any vessel, craft or
10 instrumentality in use in ocean or inland waterways, including
11 liability of the insured for personal injury, illness, or death for loss
12 or damage to the property of the insured or another person.

13 (i) "Unearned premium" means that portion of a premium that
14 had not been earned because of the cancellation of the insolvent
15 insurer's policy and is that premium remaining for the unexpired
16 term of the insolvent insurer's policy. "Unearned premium" does
17 not include any amount sought as return of a premium under any
18 policy providing retroactive insurance of a known loss or return of
19 a premium under any retrospectively rated policy or a policy
20 subject to a contingent surcharge or any policy in which the final
21 determination of the premium cost is computed after expiration of
22 the policy and is calculated on the basis of actual loss experience
23 during the policy period.

24 *SEC. 7. Article 14.26 (commencing with Section 1063.70) is*
25 *added to Chapter 1 of Part 2 of Division 1 of the Insurance Code,*
26 *to read:*

27
28 *Article 14.26. Workers' Compensation Bond Fund*

29
30 *1063.70. The California Insurance Guarantee Association is*
31 *authorized to pay and discharge certain claims of insolvent*
32 *insurers as defined in Section 1063.1 through the collection of*
33 *premiums from its members, which amounts are limited by law and*
34 *take time to assess and collect. This article provides for the ability*
35 *of CIGA to request the issuance of bonds by the California*
36 *Infrastructure and Economic Development Bank pursuant to*
37 *Article 8 (commencing with Section 63049.6) of Chapter 2 of*
38 *Division 1 of Title 6.7 of the Government Code to more*
39 *expeditiously and effectively provide for the payment of covered*
40 *claims that arise as a result of the insolvencies of insurance*



1 companies providing workers' compensation insurance. The
2 bonds are to be paid from the special bond assessments assessed
3 by CIGA for those purposes and the other funds provided pursuant
4 to Section 1063.74. Special bond assessments to repay bonds
5 issued for payment of workers compensation benefits shall be
6 assessed, to the extent necessary, for the claims category. It is a
7 public purpose and in the best interest of the public health, safety,
8 and general welfare of the residents of this state to provide for the
9 issuance of bonds to pay claimants and policyholders having
10 covered claims against insolvent insurers operating in this state.

11 1063.71. (a) The terms "member insurer," "insolvent
12 insurer," and "covered claims" have the meanings assigned those
13 terms in Section 1063.1.

14 (b) The terms "CIGA," "commissioner," "board," and
15 "department" have the meanings assigned those terms in Section
16 1063.51.

17 (c) "Bank" means the California Infrastructure and Economic
18 Development Bank created pursuant to Article 1 (commencing
19 with Section 63020) of Chapter 2, Division 1 of Title 6.7 of the
20 Government Code.

21 (d) "Bonds" means bonds issued by the Bank pursuant to
22 Article 8 (commencing with Section 63049.6) of Chapter 2 of
23 Division 1 of Title 6.7 of the Government Code to provide funds for
24 the payment of the covered claims and the adjusting and defense
25 expenses relating to those claims that are issued at the request of
26 the board pursuant to Section 1063.73.

27 (e) "Collateral" means the special bond assessments, the right
28 of CIGA to be paid the special bond assessments, all revenues
29 therefrom, the separate account of the Workers' Comp Bond Fund
30 into which special bond assessments are deposited, and the
31 proceeds thereof.

32 (f) "Special bond assessment" means the premiums collected
33 by CIGA pursuant to Section 1063.74.

34 (g) "Workers' Comp Bond Fund" means the fund created
35 pursuant to Section 1063.72.

36 1063.72. The Workers' Comp Bond Fund is hereby created.
37 Proceeds from the sale of bonds shall be deposited in a separate
38 account in the Workers' Comp Bond Fund. Only CIGA, and with
39 respect to payment of the bonds, the trustee for the bonds, shall
40 have the ability to authorize disbursements from the separate



1 account. Special bond assessments shall be deposited in a separate
2 account in the Workers' Comp Bond Fund and shall not be
3 commingled with any other moneys. Only the trustee for the bonds
4 shall have the ability to authorize disbursements from this separate
5 account, and CIGA shall have no right or authority to authorize
6 disbursements from this separate account. The Workers' Comp
7 Bond Fund shall be maintained with the trustee for the bonds.
8 Following payment or provision for payment of the bonds,
9 amounts in the Workers' Comp Bond Fund shall be transferred to
10 the fund that is designated in the indenture. All money in the
11 Workers' Comp Bond Fund and all special bond assessments shall
12 be used by CIGA for the exclusive purpose of carrying out the
13 purposes of this part, and, notwithstanding any other provisions of
14 law, the Workers' Comp Bond Fund shall not be a state fund, shall
15 not be subject to the rules or procedures of any fund in the State
16 Treasury, and application of the fund shall not be subject to the
17 supervision or budgetary approval of any officer or division of
18 state government. CIGA and the trustee for the bonds may as
19 necessary or convenient to the accomplishment of any other
20 purpose under this article, divide the fund into separate accounts.

21 1063.73. In the event CIGA determines that the insolvency of
22 one or more member insurers providing workers' compensation
23 insurance will result in covered claim obligations for workers'
24 compensation claims in excess of CIGA's capacity to pay from
25 current funds, the board, in its sole discretion, may by resolution
26 request the Bank to issue bonds pursuant to Article 8 (commencing
27 with Section 63049.6) of Chapter 2 of Division 1 of Title 6.7 of the
28 Government Code to provide funds for the payment of the covered
29 claims and the adjusting and defense expenses relating to those
30 claims. Notwithstanding any other provision of law, CIGA is
31 hereby authorized to borrow proceeds of the bonds to provide for
32 those purposes. CIGA may request the Bank to issue bonds
33 pursuant to Article 8 (commencing with Section 63049.6) of
34 Chapter 2 of Division 1 of Title 6.7 of the Government Code. CIGA
35 shall provide the commissioner with a copy of the request and the
36 commissioner may, within 30 days of receipt of the request, modify,
37 cancel, or require a delay in the requested issuance. The proceeds
38 of bonds issued for workers' compensation benefits may be used
39 by CIGA to reimburse funds advanced or temporarily loaned from
40 other categories to fund workers' compensation claims.



1 1063.74. (a) Notwithstanding any other limits on
2 assessments, CIGA shall have the authority to levy upon member
3 insurers special bond assessments in the amount necessary to pay
4 the principal of and interest on the bonds, and to meet other
5 requirements established by agreements relating to the bonds. The
6 assessments shall be collected only from the member insurers
7 providing workers' compensation insurance, in the same manner
8 as separate premium payments are used to pay the claims and costs
9 allocated to that category pursuant to Section 1063.5. Special
10 bond assessments made pursuant to this section shall also be
11 subject to the surcharge provisions in Sections 1063.14 and
12 1063.145.

13 (b) In addition to the special bond assessments provided for in
14 this section, the board in its discretion and subject to other
15 obligations of the association, may utilize current funds of CIGA,
16 premium assessments made under Section 1063.5, and advances
17 or dividends received from the liquidators of insolvent insurers to
18 pay the principal and interest on any bonds issued at the board's
19 request and shall utilize, to the extent feasible, the recoveries from
20 the liquidators of the estates of insolvent workers' compensation
21 carriers to pay bonds issued at the board's request to fund workers'
22 compensation claims.

23 1063.75. Any bonds issued to provide funds for covered claim
24 obligations for workers' compensation claims shall be issued prior
25 to January 1, 2007, in an aggregate principal amount outstanding
26 at any one time not to exceed \$1.5 billion, and any bonds issued
27 or issued to refund bonds shall not have a final maturity exceeding
28 twenty years from the date of issuance. The bonds shall be issued
29 at the request of CIGA, shall be in the form, shall bear the date or
30 dates, and shall mature at the time or times as the indenture
31 authorized by the request may provide. The bonds may be issued
32 in one or more series, as serial bonds or as term bonds, or as a
33 combination thereof, and, notwithstanding any other provision of
34 law, the amount of principal of, or interest on, bonds maturing at
35 each date of maturity need not be equal. The bonds shall bear
36 interest at the rate or rates, variable or fixed or a combination
37 thereof, be in the denominations, be in the form, either coupon or
38 registered, carry the registration privileges, be executed in the
39 manner, be payable in the medium of payment at the place or
40 places within or without the state, be subject to the terms of



1 redemption, contain the terms and conditions, and be secured by
2 the covenants as the indenture may provide. The indenture may
3 provide for the proceeds of the bonds and funds securing the bonds
4 to be invested in any securities and investments, including
5 investment agreements, as specified therein. CIGA may enter into
6 or authorize any ancillary obligations or derivative agreements as
7 it determines necessary or desirable to manage interest rate risk
8 or security features related to the bonds. The bonds shall be sold
9 at public or private sale by the Treasurer at, above, or below the
10 principal amount thereof, on the terms and conditions and for the
11 consideration in the medium of payment that the Treasurer shall
12 determine prior to the sale.

13 1063.76. (a) The collateral shall be used solely for the
14 purpose of paying the principal and redemption price of, and
15 interest on, the bonds and any amounts owing by CIGA under
16 contracts entered into pursuant to Section 1063.77, and shall not
17 be used for any other purpose. Member insurers shall pay the
18 special bond assessments directly to the trustee for the bonds. Any
19 collateral in the possession of CIGA shall be held by CIGA in trust
20 for the benefit of the trustee for the bonds.

21 (b) Upon the issuance of the first bond, the collateral shall be
22 subject to a first priority statutory lien in favor of the trustee for the
23 bonds, for the benefit of the holders of the bonds and the parties
24 to the contracts entered into pursuant to Section 1063.77, to secure
25 the payment of the principal and redemption price of, and interest
26 on, the bonds and any amounts owing by CIGA under contracts
27 entered into pursuant to Section 1063.77. This lien shall arise by
28 operation of law automatically without any action on the part of
29 CIGA, the bank, or any other person. This lien is a continuous lien
30 on all collateral effective from the time the first bond is issued,
31 whether or not a particular item of collateral exists at the time of
32 the issuance. From the time the first bond is issued, this lien shall
33 be valid, effective, prior, perfected, binding, and enforceable
34 against CIGA, its successors, purchasers of the collateral,
35 creditors, and all others asserting rights in the collateral,
36 irrespective of whether those parties have notice of the lien and
37 without the need for any physical delivery, recordation, filing, or
38 further act. Upon default in the payment of the principal or
39 redemption price of, or interest on, the bonds, or any amounts
40 owing by CIGA under contracts entered into pursuant to Section



1 1063.77, the trustee for the bonds shall be entitled to foreclose or
2 otherwise enforce this lien on the collateral.

3 (c) No person acting under any provision of law or principle of
4 equity shall be permitted in any way to impede or in any manner
5 interfere with (1) the full and timely payment of the principal and
6 redemption price of, and interest on, the bonds and any amounts
7 owing by CIGA under contracts entered into pursuant to Section
8 1063.77, or (2) the statutory lien created by this section and the full
9 and timely application of the collateral to the payment of the
10 principal and redemption price of, and interest on, the bonds and
11 any amounts owing by CIGA under contracts entered into
12 pursuant to Section 1063.77.

13 (d) None of the collateral shall be subject to garnishment, levy,
14 execution, attachment, or other process, writ (including writ of
15 mandate), or remedy in connection with the assertion or
16 enforcement of any debt, claim, settlement, or judgment against
17 the state, the department, the commissioner, the bank, CIGA, or the
18 board, nor shall any of the collateral be subject to the claims of any
19 creditor of the state, the department, the commissioner, the bank,
20 CIGA, or the board. This paragraph shall not limit the rights or
21 remedies of the trustee for the bonds, the holders of the bonds, or
22 the parties to contracts entered into pursuant to Section 1063.77.

23 (e) As long as any bond is outstanding, CIGA shall not be
24 subject to Article 14 (commencing with Section 1010) or Article
25 14.3 (commencing with Section 1064.1) of Chapter 1 of Part 2 of
26 Division 1 of the Insurance Code.

27 1063.77. CIGA is authorized to enter into those contracts or
28 agreements with those banks, insurers, or other financial
29 institutions or parties that it determines are necessary or desirable
30 to improve the security and marketability of, or to manage interest
31 rates or other risks associated with, the bonds issued pursuant to
32 Article 8 (commencing with Section 63049.6) of Chapter 2 of
33 Division 1 of Title 6.7 of the Government Code. Those contracts
34 or agreements may contain an obligation to reimburse, with
35 interest, any of those banks, insurers, or other financial institutions
36 or parties for advances used to pay the purchase price of, or
37 principal or interest on, the bonds or other obligations.

38 SEC. 8. Section 1871.4 of the Insurance Code is amended to
39 read:

40 1871.4. (a) It is unlawful to do any of the following:



1 (1) Make or cause to be made any knowingly false or fraudulent
2 material statement or material representation for the purpose of
3 obtaining or denying any compensation, as defined in Section
4 3207 of the Labor Code.

5 (2) Present or cause to be presented any knowingly false or
6 fraudulent written or oral material statement in support of, or in
7 opposition to, any claim for compensation for the purpose of
8 obtaining or denying any compensation, as defined in Section
9 3207 of the Labor Code.

10 (3) Knowingly assist, abet, conspire with, or solicit any person
11 in an unlawful act under this section.

12 (4) Make or cause to be made any knowingly false or fraudulent
13 statements with regard to entitlement to benefits with the intent to
14 discourage an injured worker from claiming benefits or pursuing
15 a claim.

16 For the purposes of this subdivision, “statement” includes, but
17 is not limited to, any notice, proof of injury, bill for services,
18 payment for services, hospital or doctor records, X-ray, test
19 results, medical-legal expense as defined in Section 4620 of the
20 Labor Code, other evidence of loss, injury, or expense, or payment.

21 (5) Make or cause to be made any knowingly false or fraudulent
22 material statement or material representation for the purpose of
23 obtaining or denying any of the benefits or reimbursement
24 provided in the Return-to-Work Program established under
25 Section 139.48 of the Labor Code.

26 (6) Make or cause to be made any knowingly false or fraudulent
27 material statement or material representation for the purpose of
28 discouraging an employer from claiming any of the benefits or
29 reimbursement provided in the Return-to-Work Program
30 established under Section 139.48 of the Labor Code.

31 (b) Every person who violates subdivision (a) shall be punished
32 by imprisonment in county jail for one year, or in the state prison,
33 for two, three, or five years, or by a fine not exceeding *one hundred*
34 *fifty thousand dollars* (~~\$50,000~~) (*\$150,000*) or double the value of
35 the fraud, whichever is greater, or by both imprisonment and fine.
36 Restitution shall be ordered, including restitution for any medical
37 evaluation or treatment services obtained or provided. The court
38 shall determine the amount of restitution and the person or persons
39 to whom the restitution shall be paid.



1 (c) Any person who violates subdivision (a) and who has a prior
2 felony conviction of that subdivision, of former Section 556, of
3 former Section 1871.1, or of Section 548 or 550 of the Penal Code,
4 shall receive a two-year enhancement for each prior conviction in
5 addition to the sentence provided in subdivision (b).

6 The existence of any fact that would subject a person to a penalty
7 enhancement shall be alleged in the information or indictment and
8 either admitted by the defendant in open court, or found to be true
9 by the jury trying the issue of guilt or by the court where guilt is
10 established by plea of guilty or nolo contendere or by trial by the
11 court sitting without a jury.

12 (d) This section shall not be construed to preclude the
13 applicability of any other provision of criminal law that applies or
14 may apply to any transaction.

15 *SEC. 9. Section 11656.6 of the Insurance Code is amended to*
16 *read:*

17 11656.6. An insurer may issue a workers' compensation
18 policy insuring an organization or association of employers as a
19 group if ~~such~~ the organization or association complies with the
20 following conditions:

21 (a) Files with the commissioner or a licensed workers'
22 compensation rating organization designated by him *or her* the
23 following:

24 (1) A copy of its articles of incorporation and bylaws or its
25 agreement of association and rules and regulations governing the
26 conduct of its business, all certified by the custodian of the
27 originals thereof;

28 (2) A statement setting forth its reasons for desiring insurance
29 as a group;

30 (3) A statement certifying that at least 75 percent of its regular
31 membership is engaged in a common trade or business, and an
32 agreement that ~~such~~ the percentage of membership will be
33 maintained during ~~such~~ the time ~~as~~ that a group workers'
34 compensation policy issued to ~~such~~ the organization or association
35 is in force;

36 (4) An agreement that only those members who are engaged in
37 a common trade or business shall be named by the organization or
38 association in any statement to the commissioner, a licensed
39 workers' compensation rating organization, or *an* insurer as
40 eligible for insurance as a member of the group, and an agreement

1 that it will immediately notify its insurer if any member of ~~such the~~
2 organization fails to remain a member in good standing in
3 accordance with the basic law, rules, and regulations of ~~such the~~
4 organization or association;

5 (5) A statement in writing undertaking to establish and
6 maintain a safety committee which, by education and otherwise,
7 will seek to reduce the incidence and severity of accidents; ~~and~~.

8 (6) An agreement in writing duly executed stating that, if the
9 insurer notifies the organization or association of the nonpayment
10 of a premium by an insured member of the organization or
11 association within 60 days after the premium was due, the
12 organization or association may be liable to pay to the insurer the
13 amount of any past due premium ~~which that~~ does not exceed the
14 amount of the dividends that are due to the organization or
15 association or its members from the insurer.

16 However, ~~no such~~ *this* agreement shall *not* be required, nor shall
17 an organization or association be liable for payment, unless the
18 governing board of the organization or association and the insurer
19 agree in writing to use dividends due for the payment of past due
20 premiums. The organization or association shall promptly notify
21 the insurer of the known insolvency of any member of the group
22 plan, and shall request, upon learning of ~~such the~~ insolvency,
23 removal of the member from the group plan. A copy of the
24 resolution of the governing board of the organization or
25 association authorizing the execution of the agreement shall be
26 filed with the commissioner or a licensed workers' compensation
27 rating organization designated by the commissioner and with any
28 insurer issuing a group policy.

29 (b) "Common trade or business," as used in this article, shall
30 mean:

31 (1) In agricultural enterprises, operations in which the principal
32 payroll of the employer develops under any combination of the
33 classifications of the Manual of Rules, Classifications and Basic
34 Rates of Workers' Compensation Insurance approved by the
35 Insurance Commissioner as applicable to farms; nurserymen;
36 cultivating or gardening of flowers; and classifications
37 embracing ~~such~~ other operations ~~as that~~ may be conducted by a
38 nonprofit cooperative association composed of producer members
39 and combinations of nonprofit cooperative agricultural marketing



1 associations having a central organization composed of member
2 associations.

3 (2) In the building and construction industry, operations in the
4 construction or repair of commercial or residential buildings or in
5 general engineering construction in which the principal payroll
6 develops under any combination of the classifications applicable
7 to ~~such~~ *the* construction or repair as they appear in the Manual of
8 Rules, Classifications and Basic Rates for Workers' Compensation
9 Insurance approved by the Insurance Commissioner. Commercial
10 buildings, as defined in this paragraph, shall mean any
11 nonresidential buildings.

12 (3) In the transportation and warehousing industry, operations
13 in which the principal payroll of the employer develops under any
14 combination of the classifications of the Manual of Rules,
15 Classifications and Basic Rates of Workers' Compensation
16 Insurance approved by the Insurance Commissioner as applicable
17 to for-hire motor carriers subject to regulation by the Public
18 Utilities Commission and warehousemen.

19 (4) In the timber and lumber industry, operations in which the
20 principal payroll of the employer develops under any combination
21 of the classifications of the Manual of Rules, ~~Classification~~
22 *Classifications* and Basic Rates of Workers' Compensation
23 Insurance approved by the Insurance Commissioner as applicable
24 to land clearing[;], logging or lumbering[;], log, chip, and lumber
25 hauling[;], planing or molding mills[;], sawmills or shingle mills[;],
26 veneer or veneer products manufacturing[;], box or box shook
27 manufacturing[;], cabinet works[;], door, door frame, or sash
28 manufacturing, and wood fiber preparation. However, no
29 classification applicable to for-hire motor carriers under the
30 provisions of paragraph (3) of this subdivision shall be included
31 in any combination of classifications authorized by this paragraph.

32 (5) For public agencies providing industrial, domestic, or
33 agricultural water service, operations in which the principal
34 payroll of the employer develops under any combination of the
35 classifications of the Manual of Rules, ~~Classification~~
36 *Classifications* and Basic Rates of Workers' Compensation
37 Insurance approved by the Insurance Commissioner as applicable
38 to irrigation, drainage, reclamation, or waterworks operations.

39 (6) For sheltered workshops and rehabilitation facilities
40 licensed pursuant to Section 1191.5 of the Labor Code, operations



1 in which the principal payroll of the employer develops under any
2 combination of classifications of the Manual of Rules,
3 ~~Classification~~ *Classifications* and Basic Rates of Workers'
4 Compensation Insurance approved by the Insurance
5 Commissioner.

6 (7) For all other enterprises, operations in which the principal
7 payroll develops under a single manual classification or a
8 combination of classifications under which a group policy may be
9 issued pursuant to subdivision (d).

10 (8) *For manufacturing facilities as identified in Sector 31 to 33,*
11 *inclusive, of the North American Industry Classification System*
12 *(NAICS), operations in which the principal payroll of the employer*
13 *develops under any combination of classifications of the Manual*
14 *of Rules, Classifications, and Basic Rates of Workers'*
15 *Compensation Insurance approved by the Insurance*
16 *Commissioner applicable to establishments engaged in the*
17 *mechanical, physical, or chemical transformation of materials,*
18 *substances, or components into new products.*

19 (c) Except as provided in subdivision (d), "principal payroll,"
20 for the purpose of this section, means not less than 51 percent of
21 the total payroll for the preceding policy year or, in the case of an
22 employer who has no preceding full year's payroll, not less than
23 51 percent of his or her estimated annual payroll. Principal or
24 estimated annual payroll shall not include the payroll of those
25 employees set forth in the standard exceptions contained in the
26 California Workers' Compensation Insurance Manual of Rules,
27 *Classifications, and Basic Rates of Workers' Compensation*
28 *Insurance approved by the commissioner.*

29 (d) An insurer may issue a workers' compensation policy
30 insuring an organization or association of employers as a group if
31 in addition to complying with the conditions set forth in
32 subdivision (a), the organization or association has had at least 50
33 percent of its present membership for at least one year prior to the
34 issuance of the policy, and not less than 75 percent of the payroll
35 of each employer to be insured under the group policy developed
36 under the same two manual classifications, or either of them, for
37 the preceding policy year or, in the case of an employer who has
38 had no preceding full-year's payroll, not less than 75 percent of his
39 estimated annual payroll develops under ~~such~~ *the* classification or
40 classifications. However, no classification applicable to for-hire



1 motor carriers under the provisions of paragraph (3) of subdivision
2 (b) shall be included in any combination of classifications
3 authorized by this subdivision.

4 *SEC. 10. Section 11735.1 is added to the Insurance Code, to*
5 *read:*

6 *11735.1. (a) In determining the advisory pure premium rates*
7 *for policies incepting on or after January 1, 2004, pursuant to a*
8 *hearing required by subdivision (b) of Section 11750, the*
9 *insurance commissioner shall take into account projected savings*
10 *due to changes enacted in the 2003–04 Regular Session.*

11 *(b) Insurers shall file rates to apply to policies incepting on or*
12 *after January 1, 2004, that include the provision for projected*
13 *savings determined by the insurance commissioner pursuant to*
14 *subdivision (a), provided, however, that these rates shall comply*
15 *with Section 11732.*

16 *(c) This section shall remain in effect only until January 1,*
17 *2005, and as of that date is repealed, unless a later enacted statute,*
18 *that is enacted before January 1, 2005, deletes or extends that date.*

19 *SEC. 11. Section 11742 is added to the Insurance Code, to*
20 *read:*

21 *11742. (a) The Legislature finds and declares that the*
22 *insolvencies of more than a dozen workers' compensation*
23 *insurance carriers have seriously constricted the market and led*
24 *to a dangerous increase in business at the State Compensation*
25 *Insurance Fund. Yet more than 200 insurance companies are still*
26 *licensed to offer workers' compensation insurance in California.*
27 *Unfortunately, many employers do not know which carriers are*
28 *offering coverage, and it is both difficult and time consuming to try*
29 *to get information on rates and coverages from competing*
30 *insurance companies. A central information source would help*
31 *employers find the required coverage at the best competitive rate.*

32 *(b) On or before July 1, 2004, the commissioner shall establish*
33 *and maintain, on the Internet Web site maintained by the*
34 *department, an online rate comparison guide showing workers'*
35 *compensation insurance rates for the 50 insurance companies*
36 *writing the highest volume of business in this line during the two*
37 *preceding years.*

38 *(c) The online comparison shall display rates for each class set*
39 *forth in the classification system adopted by the commissioner*
40 *pursuant to Section 11734, shall include the effective date of each*



1 rate, and shall list the rates for each class from the lowest to the
2 highest rate.

3 (d) The rating organization designated by the commissioner as
4 his or her statistical agent pursuant to Section 11751.5 shall
5 determine the cost savings achieved in the 2003 workers'
6 compensation reform legislation. Each insurer shall certify, in the
7 form and manner determined by the commissioner, that its rates
8 reflect those cost savings. The certifications shall be made
9 available to the public on the Internet Web site maintained by the
10 department.

11 SEC. 12. Section 11873 of the Insurance Code is amended to
12 read:

13 11873. (a) Except as provided by subdivision (b), the fund
14 shall not be subject to the provisions of the Government Code
15 made applicable to state agencies generally or collectively, unless
16 the section specifically names the fund as an agency to which the
17 provision applies.

18 (b) The fund shall be subject to the provisions of Chapter 10.3
19 (commencing with Section 3512) of Division 4 of Title 1 of, and
20 Division 5 (commencing with Section 18000) of Title 2 of, the
21 Government Code, with the exception of all of the following:

22 (1) Article 1 (commencing with Section 19820) and Article 2
23 (commencing with Section 19823) of Chapter 2 of Part 2.6 of
24 Division 5 of Title 2 of the Government Code.

25 (2) Sections 19849.2, 19849.3, 19849.4, and 19849.5 of the
26 Government Code.

27 (3) Chapter 4.5 (commencing with Section 19993.1) of Part 2.6
28 of Division 5 of Title 2 of the Government Code.

29 (c) Notwithstanding any provision of the Government Code or
30 any other provision of law, the positions funded by the State
31 Compensation Insurance Fund are exempt from any hiring freezes
32 and staff cutbacks otherwise required by law. This subdivision is
33 declaratory of existing law.

34 SEC. 13. Section 62.5 of the Labor Code is amended to read:

35 62.5. (a) (1) The Workers' Compensation Administration
36 Revolving Fund is hereby created as a special account in the State
37 Treasury. Money in the fund may be expended by the department,
38 upon appropriation by the Legislature, for the administration of
39 the workers' compensation program set forth in this division and
40 Division 4 (commencing with Section 3200), other than the



1 activities financed pursuant to Section 3702.5, and may not be
2 used for any other purpose.

3 ~~(b)~~

4 (2) The fund shall consist of assessments made pursuant to
5 ~~subdivision (e) (d). Costs to the program shall be shared on a~~
6 ~~proportional basis between the General Fund and employer~~
7 ~~assessments. The General Fund appropriation shall account for 80~~
8 ~~percent and employer Employer assessments shall account for 20~~
9 ~~percent of the total costs of the program.~~

10 ~~(e)~~

11 (3) *It is the intent of the Legislature that a sufficient portion of*
12 *the fund shall be allocated to the following priority initiatives:*

13 (A) *Implementation of the fraudulent claim reporting and*
14 *medical fee schedule reporting provisions contained in Sections*
15 *3823 and 5307.1.*

16 (B) *Implementation of a clerical upgrade to promote adequate*
17 *staffing and clerical employee retention necessary to support the*
18 *judicial system of the Workers' Compensation Appeals Board.*

19 (C) *The development of a cost-efficient electronic adjudication*
20 *management system.*

21 (b) (1) The Uninsured Employers Benefits Trust Fund is
22 hereby created as a special trust fund account in the State Treasury,
23 of which the director is trustee, and its sources of funds are as
24 provided in subdivision (d). Notwithstanding Section 13340 of the
25 Government Code, the fund is continuously appropriated for the
26 payment of nonadministrative expenses of the workers'
27 compensation program for workers injured while employed by
28 uninsured employers in accordance with Article 2 (commencing
29 with Section 3710) of Chapter 4 of Part 1 of Division 4, and shall
30 not be used for any other purpose. All moneys collected shall be
31 retained in the trust fund until paid as benefits to workers injured
32 while employed by uninsured employers. Nonadministrative
33 expenses include audits and reports of services prepared pursuant
34 to subdivision (b) of Section 3716.1. The assessment amount for
35 this fund shall be stated separately.

36 (2) Notwithstanding any other provision of law, commencing
37 January 1, 2004, all references to the Uninsured Employers Fund
38 shall mean the Uninsured Employers Benefits Trust Fund.

39 (3) Notwithstanding paragraph (1), in the event that budgetary
40 restrictions or impasse prevent the timely payment of



1 administrative expenses from the Workers' Compensation
2 Administration Revolving Fund, those expenses shall be advanced
3 from the Uninsured Employers Benefits Trust Fund. Expense
4 advances made pursuant to this paragraph shall be reimbursed in
5 full to the Uninsured Employers Benefits Trust Fund upon
6 enactment of the annual Budget Act.

7 ~~(d)~~

8 (c) (1) The Subsequent Injuries Benefits Trust Fund is hereby
9 created as a special trust fund account in the State Treasury, of
10 which the director is trustee, and its sources of funds are as
11 provided in subdivision ~~(e)~~ (d). Notwithstanding Section 13340 of
12 the Government Code, the fund is continuously appropriated for
13 the nonadministrative expenses of the workers' compensation
14 program for workers who have suffered serious injury and who are
15 suffering from previous and serious permanent disabilities or
16 physical impairments, in accordance with Article 5 (commencing
17 with Section 4750) of Chapter 2 of Part 2 of Division 4, and
18 Section 4 of Article XIV of the California Constitution, and shall
19 not be used for any other purpose. All moneys collected shall be
20 retained in the trust fund until paid as benefits to workers who have
21 suffered serious injury and who are suffering from previous and
22 serious permanent disabilities or physical impairments.
23 Nonadministrative expenses include audits and reports of services
24 pursuant to subdivision (c) of Section 4755. The assessment
25 amount for this fund shall be stated separately.

26 (2) Notwithstanding any other provision of law, commencing
27 with January 1, 2004, all references to the Subsequent Injuries
28 Fund shall mean the Subsequent Injuries Benefits Trust Fund.

29 (3) Notwithstanding paragraph (1), in the event that budgetary
30 restrictions or impasse prevent the timely payment of
31 administrative expenses from the Workers' Compensation
32 Administration Revolving Fund, those expenses shall be advanced
33 from the Subsequent Injuries Benefits Trust Fund. Expense
34 advances made pursuant to this paragraph shall be reimbursed in
35 full to the Subsequent Injuries Benefits Trust Fund upon
36 enactment of the annual Budget Act.

37 ~~(e)~~

38 (d) (1) Separate assessments shall be levied by the director
39 upon all employers as defined in Section 3300 for purposes of
40 deposit in the Workers' Compensation Administration Revolving



1 Fund, the Uninsured Employers Benefits Trust Fund, and the
2 Subsequent Injuries Benefits Trust Fund. The total amount of the
3 assessments shall be allocated between self-insured employers and
4 insured employers in proportion to payroll respectively paid in the
5 most recent year for which payroll information is available. The
6 director shall adopt reasonable regulations governing the manner
7 of collection of the assessments. The regulations shall require the
8 assessments to be paid by self-insurers to be expressed as a
9 percentage of indemnity paid during the most recent year for
10 which information is available, and the assessments to be paid by
11 insured employers to be expressed as a percentage of premium. In
12 no event shall the assessments paid by insured employers be
13 considered a premium for computation of a gross premium tax or
14 agents' commission.

15 (2) The regulations adopted pursuant to paragraph (1) shall be
16 exempt from the rulemaking provisions of the Administrative
17 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
18 Part 1 of Division 3 of Title 2 of the Government Code).

19 *SEC. 14. Section 139.5 of the Labor Code is repealed.*

20 ~~139.5. (a) The administrative director shall establish a~~
21 ~~vocational rehabilitation unit, which shall include appropriate~~
22 ~~professional staff, and which shall have the following duties:~~

23 ~~(1) To foster, review, and approve vocational rehabilitation~~
24 ~~plans developed by a qualified rehabilitation representative of the~~
25 ~~employer, insurer, state agency, or employee. Plans agreed to by~~
26 ~~the employer and employee do not require approval by the~~
27 ~~vocational rehabilitation unit unless the employee is~~
28 ~~unrepresented.~~

29 ~~(2) To develop rules and regulations, to be promulgated by the~~
30 ~~administrative director, providing for a procedure in which an~~
31 ~~employee may waive the services of a qualified rehabilitation~~
32 ~~representative where the employee has been enrolled and made~~
33 ~~substantial progress toward completion of a degree or certificate~~
34 ~~from a community college, California State University, or the~~
35 ~~University of California and desires a plan to complete the degree~~
36 ~~or certificate. These rules and regulations shall provide that this~~
37 ~~waiver as well as any plan developed without the assistance of a~~
38 ~~qualified rehabilitation representative must be approved by the~~
39 ~~rehabilitation unit.~~



1 ~~(3) To develop rules and regulations, to be promulgated by the~~
2 ~~administrative director, which would expedite and facilitate the~~
3 ~~identification, notification and referral of industrially injured~~
4 ~~employees to vocational rehabilitation services.~~

5 ~~(4) To coordinate and enforce the implementation of vocational~~
6 ~~rehabilitation plans.~~

7 ~~(5) To develop a fee schedule, to be promulgated by the~~
8 ~~administrative director, governing reasonable fees for vocational~~
9 ~~rehabilitation services provided on and after January 1, 1991. The~~
10 ~~initial fee schedule promulgated under this paragraph shall be~~
11 ~~designed to reduce the cost of vocational rehabilitation services by~~
12 ~~10 percent from the level of fees paid during 1989. On or before~~
13 ~~July 1, 1994, the administrative director shall establish the~~
14 ~~maximum aggregate permissible fees that may be charged for~~
15 ~~counseling. Those fees shall not exceed four thousand five~~
16 ~~hundred dollars (\$4,500) and shall be included within the sixteen~~
17 ~~thousand dollar (\$16,000) cap. The fee schedule shall permit up to~~
18 ~~(A) three thousand dollars (\$3,000) for vocational evaluation,~~
19 ~~evaluation of vocational feasibility, initial interview, vocational~~
20 ~~testing, counseling and research for plan development, and~~
21 ~~preparation of the Division of Workers' Compensation Form 102,~~
22 ~~and (B) three thousand five hundred dollars (\$3,500) for plan~~
23 ~~monitoring, job seeking skills, and job placement research and~~
24 ~~counseling. However, in no event shall the aggregate of (A) and~~
25 ~~(B) exceed four thousand five hundred dollars (\$4,500).~~

26 ~~(6) To develop standards, to be promulgated by the~~
27 ~~administrative director, for governing the timeliness and the~~
28 ~~quality of vocational rehabilitation services.~~

29 ~~(b) The salaries of the personnel of the vocational rehabilitation~~
30 ~~unit shall be fixed by the Department of Personnel Administration.~~

31 ~~(c) When an employee is determined to be medically eligible~~
32 ~~and chooses to participate in a vocational rehabilitation program,~~
33 ~~he or she shall continue to receive temporary disability indemnity~~
34 ~~payments only until his or her medical condition becomes~~
35 ~~permanent and stationary and, thereafter, may receive a~~
36 ~~maintenance allowance. Rehabilitation maintenance allowance~~
37 ~~payments shall begin after the employee's medical condition~~
38 ~~becomes permanent and stationary, upon a request for vocational~~
39 ~~rehabilitation services. Thereafter, the maintenance allowance~~
40 ~~shall be paid for a period not to exceed 52 weeks in the aggregate,~~



1 ~~except where the overall cap on vocational rehabilitation services~~
2 ~~can be exceeded under this section or Section 4642 or subdivision~~
3 ~~(d) or (e) of Section 4644.~~

4 ~~The employee also shall receive additional living expenses~~
5 ~~necessitated by the vocational rehabilitation services, together~~
6 ~~with all reasonable and necessary vocational training, at the~~
7 ~~expense of the employer, but in no event shall the expenses,~~
8 ~~counseling fees, training, maintenance allowance, and costs~~
9 ~~associated with, or arising out of, vocational rehabilitation~~
10 ~~services incurred after the employee's request for vocational~~
11 ~~rehabilitation services, except temporary disability payments,~~
12 ~~exceed sixteen thousand dollars (\$16,000). The administrative~~
13 ~~director shall adopt regulations to ensure that the continued receipt~~
14 ~~of vocational rehabilitation maintenance allowance benefits is~~
15 ~~dependent upon the injured worker's regular and consistent~~
16 ~~attendance at, and participation in, his or her vocational~~
17 ~~rehabilitation program.~~

18 ~~(d) The amount of the maintenance allowance due under~~
19 ~~subdivision (e) shall be two thirds of the employee's average~~
20 ~~weekly earnings at the date of injury payable as follows:~~

21 ~~(1) The amount the employee would have received as~~
22 ~~continuing temporary disability indemnity, but not more than two~~
23 ~~hundred forty six dollars (\$246) a week for injuries occurring on~~
24 ~~or after January 1, 1990.~~

25 ~~(2) At the employee's option, an additional amount from~~
26 ~~permanent disability indemnity due or payable, sufficient to~~
27 ~~provide the employee with a maintenance allowance equal to~~
28 ~~two thirds of the employee's average weekly earnings at the date~~
29 ~~of injury subject to the limits specified in subdivision (a) of Section~~
30 ~~4453 and the requirements of Section 4661.5. In no event shall~~
31 ~~temporary disability indemnity and maintenance allowance be~~
32 ~~payable concurrently.~~

33 ~~If the employer disputes the treating physician's determination~~
34 ~~of medical eligibility, the employee shall continue to receive that~~
35 ~~portion of the maintenance allowance payable under paragraph (1)~~
36 ~~pending final determination of the dispute. If the employee~~
37 ~~disputes the treating physician's determination of medical~~
38 ~~eligibility and prevails, the employee shall be entitled to that~~
39 ~~portion of the maintenance allowance payable under paragraph (1)~~
40 ~~retroactive to the date of the employee's request for vocational~~



1 ~~rehabilitation services. These payments shall not be counted~~
2 ~~against the maximum expenditures for vocational rehabilitation~~
3 ~~services provided by this section.~~

4 ~~(e) No provision of this section nor of any rule, regulation, or~~
5 ~~vocational rehabilitation plan developed or promulgated under~~
6 ~~this section nor any benefit provided pursuant to this section shall~~
7 ~~apply to an injured employee whose injury occurred prior to~~
8 ~~January 1, 1975. Nothing in this section shall affect any plan,~~
9 ~~benefit, or program authorized by this section as added by Chapter~~
10 ~~1513 of the Statutes of 1965 or as amended by Chapter 83 of the~~
11 ~~Statutes of 1972.~~

12 ~~(f) The time within which an employee may request vocational~~
13 ~~rehabilitation services is set forth in Sections 5405.5, 5410, and~~
14 ~~5803.~~

15 ~~(g) An offer of a job within state service to a state employee in~~
16 ~~State Bargaining Unit 1, 4, 15, 18, or 20 at the same or similar~~
17 ~~salary and the same or similar geographic location is a prima facie~~
18 ~~offer of vocational rehabilitation under this statute.~~

19 ~~(h) It shall be unlawful for a qualified rehabilitation~~
20 ~~representative or rehabilitation counselor to refer any employee to~~
21 ~~any work evaluation facility or to any education or training~~
22 ~~program if the qualified rehabilitation representative or~~
23 ~~rehabilitation counselor, or a spouse, employer, coemployee, or~~
24 ~~any party with whom he or she has entered into contract, express~~
25 ~~or implied, has any proprietary interest in or contractual~~
26 ~~relationship with the work evaluation facility or education or~~
27 ~~training program. It shall also be unlawful for any insurer to refer~~
28 ~~any injured worker to any rehabilitation provider or facility if the~~
29 ~~insurer has a proprietary interest in the rehabilitation provider or~~
30 ~~facility or for any insurer to charge against any claim for the~~
31 ~~expenses of employees of the insurer to provide vocational~~
32 ~~rehabilitation services unless those expenses are disclosed to the~~
33 ~~insured and agreed to in advance.~~

34 ~~(i) Any charges by an insurer for the activities of an employee~~
35 ~~who supervises outside vocational rehabilitation services shall not~~
36 ~~exceed the vocational rehabilitation fee schedule, and shall not be~~
37 ~~counted against the overall cap for vocational rehabilitation or the~~
38 ~~limit on counselor's fees provided for in this section. These~~
39 ~~charges shall be attributed as expenses by the insurer and not losses~~
40 ~~for purposes of insurance rating pursuant to Article 2~~



1 ~~(commencing with Section 11730) of Chapter 3 of Division 2 of~~
2 ~~the Insurance Code.~~

3 ~~(j) Any costs of an employer of supervising vocational~~
4 ~~rehabilitation services shall not be counted against the overall cap~~
5 ~~for vocational rehabilitation or the limit on counselor's fees~~
6 ~~provided for in this section.~~

7 *SEC. 14.2. Section 139.5 is added to the Labor Code, to read:*

8 *139.5. (a) Except as provided in Section 4658.6, if the injury*
9 *causes permanent partial disability and the injured employee does*
10 *not return to work for the employer within 60 days of the*
11 *termination of temporary disability, the injured employee shall be*
12 *eligible for a supplemental job displacement benefit in the form of*
13 *a nontransferable voucher for education-related retraining or skill*
14 *enhancement, or both, at state approved or accredited schools, as*
15 *follows:*

16 *(1) Up to four thousand dollars (\$4,000) for permanent partial*
17 *disability awards of less than 15 percent.*

18 *(2) Up to six thousand dollars (\$6,000) for permanent partial*
19 *disability awards between 15 and 25 percent.*

20 *(3) Up to eight thousand dollars (\$8,000) for permanent*
21 *partial disability awards between 26 and 49 percent.*

22 *(4) Up to ten thousand dollars (\$10,000) for permanent partial*
23 *disability awards between 50 and 99 percent.*

24 *(b) The voucher may be used for payment of tuition, fees, books,*
25 *and other expenses required by the school for retraining or skill*
26 *enhancement. No more than 10 percent of the voucher moneys may*
27 *be used for vocational or return to work counseling. The*
28 *administrative director shall adopt regulations governing the form*
29 *of payment, direct reimbursement to the injured employee upon*
30 *presentation to the employer of appropriate documentation and*
31 *receipts, and any other matters necessary to the proper*
32 *administration of the supplemental job displacement benefit.*

33 *(c) Within 10 days of the last payment of temporary disability*
34 *the employer shall provide to the employee in the form and manner*
35 *prescribed by the administrative director information that*
36 *provides notice of rights under this section. This notice shall be*
37 *sent by certified mail.*

38 *(d) This section shall apply to injuries occurring on or after*
39 *January 1, 2004.*



1 SEC. 14.3. Article 2.6 (commencing with Section 4635) of
2 Chapter 2 of Part 2 of Division 4 of the Labor Code is repealed.

3 SEC. 14.4. Section 4658.5 is added to the Labor Code, to
4 read:

5 4658.5. (a) Except as provided in Section 4658.6, if the injury
6 causes permanent partial disability and the injured employee does
7 not return to work for the employer within 60 days of the
8 termination of temporary disability, the injured employee shall be
9 eligible for a supplemental job displacement benefit in the form of
10 a nontransferable voucher for education-related retraining or skill
11 enhancement, or both, at state approved or accredited schools, as
12 follow:

13 (1) Up to four thousand dollars (\$4,000) for permanent partial
14 disability awards of less than 15 percent.

15 (2) Up to six thousand dollars (\$6,000) for permanent partial
16 disability awards between 15 and 25 percent.

17 (3) Up to eight thousand dollars (\$8,000) for permanent
18 partial disability awards between 26 and 49 percent.

19 (4) Up to ten thousand dollars (\$10,000) for permanent partial
20 disability awards between 50 and 99 percent.

21 (b) The voucher may be used for payment of tuition, fees, books,
22 and other expenses required by the school for retraining or skill
23 enhancement. No more than 10 percent of the voucher moneys may
24 be used for vocational or return to work counseling. The
25 administrative director shall adopt regulations governing the form
26 of payment, direct reimbursement to the injured employee upon
27 presentation to the employer of appropriate documentation and
28 receipts, and any other matters necessary to the proper
29 administration of the supplemental job displacement benefit.

30 (c) Within 10 days of the last payment of temporary disability,
31 the employer shall provide to the employee, in the form and
32 manner prescribed by the administrative director, information that
33 provides notice of rights under this section. This notice shall be
34 sent by certified mail.

35 (d) This section shall apply to injuries occurring on or after
36 January 1, 2004.

37 SEC. 15. Section 4658.6 is added to the Labor Code, to read:

38 4658.6. The employer shall not be liable for the supplemental
39 job displacement benefit if the employer meets either of the
40 following conditions:

1 (a) Within 30 days of the termination of temporary disability
2 indemnity payments, the employer offers, and the employee
3 rejects, or fails to accept, in the form and manner prescribed by the
4 administrative director, modified work, accommodating the
5 employee's work restrictions, lasting at least 12 months.

6 (b) Within 30 days of the termination of temporary disability
7 indemnity payments, the employer offers, and the employee
8 rejects, or fails to accept, in the form and manner prescribed by the
9 administrative director, alternative work meeting all of the
10 following conditions:

11 (1) The employee has the ability to perform the essential
12 functions of the job provided.

13 (2) The job provided is in a regular position lasting at least 12
14 months.

15 (3) The job provided offers wages and compensation that are
16 within 15 percent of those paid to the employee at the time of injury.

17 (4) The job is located within reasonable commuting distance of
18 the employee's residence at the time of injury. 7

19 SEC. 16. Section 5405.5 of the Labor Code is repealed.

20 ~~5405.5. Except as otherwise provided in Sections 4644 and~~
21 ~~5410, the period within which an employee may request~~
22 ~~vocational rehabilitation benefits provided by Article 2.6~~
23 ~~(commencing with Section 4635) of Part 2 of Chapter 2 is one year~~
24 ~~from the date of the last finding of permanent disability by the~~
25 ~~appeals board, or one year from the date the appeals board~~
26 ~~approved a compromise and release of other issues.~~

27 SEC. 17. (a) The Legislature finds and declares that to ensure
28 that injured workers are fairly treated, receive prompt and
29 adequate disability benefits, and have access to quality health
30 care, a stable and predictable workers' compensation system is
31 required.

32 (b) It is the intent of the Legislature to ensure a stable and
33 predictable workers' compensation market in California.

34 (c) Accordingly, the Commission on Health Safety and
35 Workers' Compensation shall study and report to the Legislature
36 the feasibility of reinstating a minimum rate regulatory structure
37 for the workers' compensation insurance market, to be phased in
38 over a five-year period.

1 *SEC. 18. This act shall become operative only if Senate Bill*
2 *228 of the 2003–04 Regular Session is enacted on or before*
3 *January 1, 2004.*

4 *SEC. 19. The provisions of this act are severable. If any*
5 *provision of this act or its application is held invalid, that*
6 *invalidity shall not affect other provisions or applications that can*
7 *be given effect without the invalid provision or application.*
8 ~~workers' compensation system by promoting the efficient delivery~~
9 ~~of high quality appropriate medical care.~~

