



Arizona State Senate Issue Brief

November 22, 2024

Note to Reader:

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STATE COMPENSATION FUND OF ARIZONA

INTRODUCTION

Arizona's State Compensation Fund (SCF) provided mandatory workers' compensation coverage and services for Arizona businesses and their employees from 1925 to 2013.

HISTORY AND OVERVIEW

The Legislature established the SCF in 1925 as part of Arizona's original Workman's Compensation Act.¹ The Act provided start-up capital of \$100,000 for the SCF and required the SCF to repay the amount. The capital was fully repaid by 1938. From 1925 through 1968, the Industrial Commission of Arizona (ICA) administered the SCF. Beginning in 1969, the SCF was removed from the ICA, becoming a separate entity.²

The SCF's mission was to "provide a ready market of workers' compensation insurance to Arizona's employers at the lowest possible cost, and to return workers to full employment at the earliest opportunity." All income was derived from policyholders' premiums and investments and any income not used for benefits to injured workers or operating expenses was returned to policyholders in the form of dividends. The SCF was required to submit its budget each even-numbered year for the following two years for review and approval by the Joint Legislative Budget Committee.

The SCF was under the direct supervision of its Board of Directors, consisting of five members appointed by the Governor to staggered five-year terms. The members were required to be SCF policyholders or a policyholder's employee. The Governor annually appointed the Board Chairperson from among its members. The Board was required to appoint a manager of the SCF, who was responsible for the SCF's daily operations.

By Board resolution, the SCF voluntarily operated as the "carrier of last resort." Though the SCF sometimes denied coverage to high-risk

¹ [Laws 1925, Chapter 83](#)

² [Laws 1968, 4SS, Chapter 6](#)

employers, the SCF generally insured any Arizona business that paid the appropriate premium and had not committed fraud against an insurance company. An Arizona employer that was declined for workers' compensation coverage by the SCF and by two private insurers, could obtain coverage through Arizona's Assigned Risk Pool.

The SCF, along with the ICA, also handled claims for private insurance carriers that became insolvent. Statute required the SCF to use its resources to investigate, manage and pay valid Arizona claims of insolvent carriers. The SCF was then reimbursed by the Special Fund of the ICA for the amount the SCF paid, together with reasonable costs.³

LITIGATION

In 2003, the Legislature attempted to transfer \$50 million from the SCF to the state General Fund in exchange for a transfer of \$50 million worth of state assets to the SCF.⁴ However, in April of 2004, the Maricopa County Superior Court determined that the monies and assets held by the SCF were not public funds, but funds held in trust and that the transfer would interfere with the contracts of SCF policyholders in violation of the Arizona Constitution. Therefore, the transfer and exchange never occurred.⁵

In 2005, the Maricopa County Superior Court determined that, under the factual circumstances of *Canyon Ambulatory Surgery Center v. Arizona State Compensation Fund*, the SCF was not subject to the Arizona Administrative Procedure Act (APA). The Arizona Court of Appeals affirmed the trial court decision in 2010 on the grounds that the pricing methodology did not constitute a rule.⁶ In 2007, the Legislature statutorily exempted the SCF from the APA.⁷

TERMINATION AND REPLACEMENT

In 2010, the Legislature required the SCF Board to establish a successor mutual insurer corporation by January 1, 2013.⁸ Laws 2011, Chapter 157 conformed state statutes to reflect the termination of the SCF and replaced SCF membership on the Workers' Compensation Appeals Board with the insurer with the largest Arizona workers' compensation market share as reported by the Department of Insurance and Financial Institutions annual report.⁹

With the termination of the SCF, the ICA must now assign improperly processed or unpaid workers' compensation claims to the Special Fund and ensure that the claims are processed and paid. The Special Fund may: 1) use third-party processors or other legal, medical, claims or labor market personnel to assist in processing and paying claims. The Special Fund must reimburse the ICA's Administrative Fund for any expenses incurred related to the processing and payment of assigned claims.¹⁰

Self-insured employers, including workers' compensation pools, must pay an annual tax, of up to three percent of the premiums that would have been paid if the employer or pool had been fully insured by an insurance carrier.¹¹

³ [OAG: State Compensation Fund, Report No. 98-22](#); [OAG: State Compensation Fund, Report No. 09-05](#)

⁴ [Laws 2003, ISS, Chapter 2](#)

⁵ [OAG: State Compensation Fund, Report No. 09-05](#); *State Compensation Fund v. Petersen*, CV2003-011970 (Maricopa County Super. Ct. filed June 20, 2003)

⁶ [225 Ariz. 414 \(App. 2010\)](#)

⁷ [Laws 2007, Ch. 55](#)

⁸ [Laws 2010, Ch. 268](#)

⁹ [Laws 2011, Chapter 157](#)

¹⁰ [A.R.S. § 23-966](#)

¹¹ [A.R.S. § 23-961](#)

ADDITIONAL RESOURCES:

- Industrial Commission of Arizona
www.ica.state.az.us
- Arizona Department of Insurance and Financial Institutions
<https://difi.az.gov/>
- Workers' Compensation Statutes:
[A.R.S. Title 23, Chapter 6](#)
- Arizona Administrative Procedure Act:
[Arizona Revised Statutes, Title 41, Chapter 6](#)
- Office of the Auditor General
[State Compensation Fund, Report No. 98-22](#)
[State Compensation Fund, Report No. 09-05](#)