

An act to add Article 7 (commencing with Section 11885) to Chapter 4 of Part 3 of Division 2 of the Insurance Code, relating to the State Compensation Insurance Fund.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Article 7 (commencing with Section 11885) is added to Chapter 4 of Part 3 of Division 2 of the Insurance Code, to read:

Article 7. Transfer of Ownership

11885. (a) The Director of Finance is hereby authorized to act as agent for the state and, in that capacity, to sell a portion of, or otherwise obtain value for, the State Compensation Insurance Fund's assets and liabilities. That authorized sale or other disposition shall be transacted with an entity that the director, in consultation with the State Treasurer, determines will provide the best combination of each of the following:

(1) The highest price for the State Compensation Insurance Fund's workers' compensation insurance assets and liabilities or the best value to the General Fund, or both.

(2) The greatest security for the payment of the purchase price.

(3) Demonstrated competence and professional qualifications for the continued satisfactory performance of the workers' compensation insurance services offered for sale or other disposition.

(b) Prior to releasing any Notice of Request for Qualifications, a majority of the State Compensation Insurance Fund Board of Directors shall concur that the assets and liabilities that are identified by the Director of Finance in subdivision (a) are appropriate for disposition.

(c) Notwithstanding any other law, the process for sale or other disposition shall include the steps the director, in consultation with the State Treasurer, deems necessary or convenient to achieve the ends set forth in this section. The process shall include, but not necessarily be limited to, all of the following:

(1) The satisfaction of criteria established by the director, in consultation with the State Treasurer, consistent with achieving the best price or other value for those workers' compensation insurance assets and liabilities. These criteria shall include any pertinent requirements of the State Compensation Insurance Fund Board of Directors.

(2) A Notice of Request for Qualifications sent by the Director of Finance to each firm currently providing workers' compensation insurance coverage to California employers and any entity proposed by the State Compensation Insurance Fund Board of Directors. In addition, it shall be advertised in the State Contracts Register pursuant to Sections

14827.1 and 14827.2 of the Government Code. This notice shall include a description of the workers' compensation insurance program, a summary description of the workers' compensation insurance assets and liabilities offered for sale or other disposition, and a description of the due diligence review process to provide potential purchasers with further information regarding the workers' compensation insurance assets and liabilities offered for sale or other disposition, the selection criteria on which the transaction will be based, the submission requirements and deadlines, and a Department of Finance contact name and telephone number for more information. A copy of the Notice of Request for Qualifications shall be provided to the Joint Legislative Budget Committee within seven days of its release.

(3) The evaluation by the director, in consultation with the State Treasurer, of all statements timely submitted in response to the Notice of Request for Qualifications sent pursuant to paragraph (2), using the criteria contained in the notice, and, based on those statements, the establishment of a qualified participant list.

(4) For purposes of Section 11772, any action by the board of directors related to any transaction contemplated by this article, including, but not limited to, any approvals of such transactions, shall be deemed to be in good faith.

11885.3. In order to accomplish the purpose of this article, the State Compensation Insurance Fund and its board of directors shall participate fully in good faith with the Director of Finance, and the Director of Finance shall act in good faith in carrying out the duties prescribed by this article.

11885.5. Notwithstanding any other law, the approval of neither the Attorney General, nor the Insurance Commissioner, nor the Director of General Services is required for execution and implementation of the sale or other disposition of the assets and liabilities of the State Compensation Insurance Fund or any other agreement authorized by this article.

11885.7. (a) The Director of Finance shall deposit all proceeds of any sale of, or any funds achieved through any other disposition of, the State Compensation Insurance Fund's workers' compensation insurance assets and liabilities under this article, less any costs related to that transaction, into the General Fund.

(b) The proceeds of any sale of, or any funds achieved through any other disposition of, the State Compensation Insurance Fund's workers' compensation insurance assets and liabilities are not "proceeds of taxes" as that term is used in subdivision (c) of Section 8 of Article XIII B of the California Constitution. The disbursement of these proceeds is not subject to the limitations imposed by that article.

11885.9. (a) Notwithstanding any other law, the Director of Finance is authorized to enter into agreements with firms or individuals to act as advisers to the state in the transactions contemplated by this article. Section 14838 of the Government Code and Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code do not apply to any agreement entered into by the director with

advisers pursuant to this section.

(b) Notwithstanding any other law, the Director of Finance is also authorized to enter into legal services agreements to obtain specialized legal advice related to the transactions contemplated by this article. Section 11040 of the Government Code and Section 6072 of the Business and Professions Code shall not apply to the legal services agreements entered into by the director pursuant to this section.

11886. (a) The Director of Finance, in consultation with the State Treasurer, shall select firms or individuals to provide advisory services based on demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required and in the manner described in this section.

(b) The Director of Finance, in consultation with the State Treasurer, shall establish selection criteria for selecting advisers. The criteria may include, but are not necessarily limited to, factors such as professional excellence, demonstrated competence, specialized experience in performing similar services, education and experience of key personnel to be assigned, staff capability, ability to meet schedules, nature and quality of similar completed work of the firm or individual, reliability and continuity of the firm or individual, and other considerations deemed by the director, in consultation with the State Treasurer, to be relevant and necessary to the performance of advisory services.

(c) In order to select advisers, the director shall publish a Notice of Request for Qualifications in the State Contracts Register pursuant to Sections 14827.1 and 14827.2 of the Government Code. The notice shall include a description of the advisory services required, the selection criteria on which the contract award will be based, submission requirements and deadlines, and a Department of Finance contact name and telephone number for more information. A copy of the Notice of Request for Qualifications shall be provided to the Joint Legislative Budget Committee within seven days of publication in the State Contracts Register.

(d) (1) After the final response date stated in the Notice of Request for Qualifications, the Director of Finance, in consultation with the State Treasurer, shall review the responses submitted, and shall evaluate them using the criteria contained in the notice. The director shall rank, in order of preference based on the criteria contained in the notice, the firm or individuals determined to be qualified to perform the required services.

(2) The Director of Finance, in consultation with the State Treasurer, may interview any of the qualified firms or individuals regarding the experience and qualifications of those firms or individuals, as well as anticipated concepts and the benefits of alternative methods of furnishing the required services.

(e) (1) Following the interviews, if any, held pursuant to subdivision (d), the Director of Finance shall adjust the ranking of the qualified individuals or firms to reflect those firms or individuals deemed to be the most highly qualified to perform the required services.

(2) The Director of Finance, in consultation with the State Treasurer, shall enter into negotiations with the firm or individual most highly ranked pursuant to paragraph (1). If negotiations are concluded successfully, the director shall enter into a contract. If the director, in his or her sole discretion, concludes that the negotiations are unsuccessful, the director shall terminate the negotiations, and begin new negotiations, in consultation with the State Treasurer, with the other firms or individuals ranked pursuant to paragraph (1) in order of their ranking, and either contract with or terminate negotiations with each next most highly ranked firm or individual.

(3) If, after pursuing the negotiation process set forth in paragraph (2), the Director of Finance has been unable to negotiate a satisfactory contract at fair and reasonable compensation, the director may reinstitute the selection process prescribed in this section, commencing with the issuance of a new Notice of Request for Qualifications.

(4) The Director of Finance shall notify the Joint Legislative Budget Committee in writing within seven days of entering into a contract with an individual or firm for advisory services.

(f) This section shall not apply to the selection of a legal services adviser.

11886.2. (a) The Director of Finance shall notify the Joint Legislative Budget Committee in writing upon his or her determination that neither the sale nor any other transaction authorized by this article is anticipated to achieve the purposes of this article or upon the completion of a disposition of State Compensation Insurance Fund assets and liabilities pursuant to this article.

(b) The Director of Finance shall cease those activities he or she is authorized or directed to undertake pursuant to this article upon the earlier of either:

(1) The 30th day following written notice by the director to the Chairperson of the Joint Legislative Budget Committee pursuant to subdivision (a).

(2) January 10, 2012. - 0

LEGISLATIVE COUNSEL'S DIGEST

Bill No. as introduced, _____. General Subject: State Compensation Insurance Fund: transfer of ownership.

Existing law provides for the existence of the State Compensation Insurance Fund for the purpose of transacting workers' compensation insurance, insurance against the expense of defending any suit for serious and willful misconduct against an employer or his or her agent, and insurance to employees and other persons of the compensation fixed by the workers' compensation laws for employees and their dependents.

This bill would authorize the Director of Finance, acting as agent for the state, to sell a portion of or otherwise obtain value for the State Compensation Insurance Fund assets and liabilities. It would provide that this sale or other disposition shall be transacted with an entity that the director, in consultation with the State Treasurer, determines will meet specified conditions. It would require that the Board of Directors of the State Compensation Insurance Fund concur that the assets and liabilities identified by the Director of Finance are appropriate for disposition.

This bill would specify the procedures applicable to the sale or other disposition of these assets and liabilities, and would require that the proceeds of any sale or any proceeds achieved through any other disposition of workers' compensation assets and liabilities, less transaction costs, be deposited into the General Fund. It would require the Director of Finance to notify the Joint Legislative Budget Committee in writing upon determining that neither the sale nor any other transaction authorized by this bill is anticipated to achieve the purposes of the bill or upon the completion of a disposition of assets and liabilities pursuant to these provisions.

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