

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HOUSE BILL 2405

AN ACT

AMENDING SECTIONS 23-902, 23-961 AND 23-1065, ARIZONA REVISED STATUTES;
RELATING TO WORKERS' COMPENSATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 23-902, Arizona Revised Statutes, is amended to
3 read:

4 23-902. Employers subject to chapter; exceptions

5 A. Employers subject to ~~the provisions of~~ this chapter are the state,
6 each county, city, town, municipal corporation and school district and every
7 person who employs any workers or operatives regularly employed in the same
8 business or establishment under contract of hire, including covered employees
9 pursuant to a professional employer agreement, except domestic servants.
10 Exempted employers of domestic servants may come under ~~the provisions of~~ this
11 chapter by complying with its provisions and the rules of the commission.
12 For the purposes of this subsection, "regularly employed" includes all
13 employments, whether continuous throughout the year, or for only a portion of
14 the year, in the usual trade, business, profession or occupation of an
15 employer.

16 B. When an employer procures work to be done for the employer by a
17 contractor over whose work the employer retains supervision or control, and
18 the work is a part or process in the trade or business of the employer, then
19 the contractors and the contractor's employees, and any subcontractor and the
20 subcontractor's employees, are, within the meaning of this section, employees
21 of the original employer. For the purposes of this subsection, "part or
22 process in the trade or business of the employer" means a particular work
23 activity that in the context of an ongoing and integral business process is
24 regular, ordinary or routine in the operation of the business or is routinely
25 done through the business' own employees.

26 C. A person engaged in work for a business, and who while so engaged
27 is independent of that business in the execution of the work and not subject
28 to the rule or control of the business for which the work is done, but is
29 engaged only in the performance of a definite job or piece of work, and is
30 subordinate to that business only in effecting a result in accordance with
31 that business design, is an independent contractor.

32 D. A business that uses the services of an independent contractor and
33 the independent contractor may prove the existence of an independent
34 contractor relationship by executing a written agreement that complies with
35 this subsection. The written agreement shall evidence that the business does
36 not have the authority to supervise or control the actual work of the
37 independent contractor or the independent contractor's employees. A written
38 agreement executed in compliance with this subsection creates a rebuttable
39 presumption of an independent contractor relationship between the parties if
40 the written agreement contains a disclosure statement that the independent
41 contractor is not entitled to workers' compensation benefits from the
42 business. Unless the rebuttable presumption is overcome, no premium may be
43 collected by the carrier on payments by the business to the independent
44 contractor if a fully completed written agreement that satisfies the
45 requirements of this subsection is submitted to the carrier. The written

1 agreement shall be dated and contain the signatures of both parties and,
2 unless otherwise provided by law, shall state that the business:

3 1. Does not require the independent contractor to perform work
4 exclusively for the business. This paragraph shall not be construed as
5 conclusive evidence that an individual who performs services primarily or
6 exclusively for another person is an employee of that person.

7 2. Does not provide the independent contractor with any business
8 registrations or licenses required to perform the specific services set forth
9 in the contract.

10 3. Does not pay the independent contractor a salary or hourly rate
11 instead of an amount fixed by contract.

12 4. Will not terminate the independent contractor before the expiration
13 of the contract period, unless the independent contractor breaches the
14 contract or violates the laws of this state.

15 5. Does not provide tools to the independent contractor.

16 6. Does not dictate the time of performance.

17 7. Pays the independent contractor in the name appearing on the
18 written agreement.

19 8. Will not combine business operations with the person performing the
20 services rather than maintaining these operations separately.

21 E. A business that uses the services of a sole proprietor who has
22 waived the sole proprietor's rights to workers' compensation coverage and
23 benefits pursuant to section 23-961, subsection ~~⊖~~ P is not liable for
24 workers' compensation coverage or the payment of premiums for the sole
25 proprietor.

26 F. The written agreement executed in compliance with subsection D of
27 this section shall be null and void and create no presumption of an
28 independent contractor relationship if the consent of either party is either:

29 1. Obtained through misrepresentation, false statements, fraud or
30 intimidation.

31 2. Obtained through coercion or duress.

32 G. If any agreement is found to be null and void under subsection F of
33 this section the insurance carrier is entitled to collect a premium.

34 Sec. 2. Section 23-961, Arizona Revised Statutes, is amended to read:

35 23-961. Methods of securing compensation by employers; deficit
36 premium; civil penalty

37 A. Employers shall secure workers' compensation to their employees in
38 one of the following ways:

39 1. By insuring and keeping insured the payment of such compensation
40 with the state compensation fund or an insurance carrier authorized by the
41 director of insurance to write workers' compensation insurance in this state.

42 2. By furnishing to the commission satisfactory proof of financial
43 ability to pay the compensation directly or through a workers' compensation
44 pool approved by the commission in the amount and manner and when due as
45 provided in this chapter. The requirements of this paragraph may be

1 satisfied by furnishing to the commission satisfactory proof that the
2 employer is a member of a workers' compensation pool approved by the
3 commission pursuant to section 23-961.01. The commission may require a
4 deposit or any other security from the employer for the payment of
5 compensation liabilities in an amount fixed by the commission, but not less
6 than one hundred thousand dollars for workers' compensation liabilities. If
7 the employer does not fully comply with the provisions of this chapter
8 relating to the payment of compensation, the commission may revoke the
9 authority of the employer to pay compensation directly.

10 B. An employer may not secure compensation to comply with this chapter
11 by any mechanism other than as provided in this section. No insurance,
12 combination or other program may be marketed, offered or sold as workers'
13 compensation that does not comply with this section. An employer violates
14 this chapter if the employer purchases or secures its obligations under this
15 chapter through a substitute for workers' compensation that does not comply
16 with this section.

17 C. Insurance carriers that transact the business of workers'
18 compensation insurance in this state shall be subject to the rules of the
19 director of insurance.

20 D. The director of insurance shall not issue to an insurance carrier a
21 certificate of authority that authorizes the insurance carrier to transact
22 workers' compensation insurance until the insurer deposits with the state
23 treasurer, through the director of insurance, cash or securities. The state
24 compensation fund shall also deposit cash or securities with the state
25 treasurer, through the director of insurance, before transacting the business
26 of workers' compensation insurance. The amount of cash or securities
27 required under this subsection shall be at least equal to the greater of the
28 following amounts:

29 1. One hundred thousand dollars.

30 2. The sum of subdivisions (a) and (b) of this paragraph less credits
31 for approved reinsurance computed as of the preceding December 31 or other
32 time as requested by the department of insurance for workers' compensation
33 insurance written subject to the laws of this state:

34 (a) The aggregate of the present values at six per cent interest of
35 all determined and estimated future direct reported loss and loss expense
36 payments on compensation claims incurred more than three years immediately
37 before the preceding December 31 or other time as requested by the department
38 of insurance.

39 (b) The aggregate of the amounts determined for each of the three
40 years immediately before the preceding December 31 or other time as requested
41 by the department of insurance which equals the greater of the following:

42 (i) Sixty-five per cent of the earned premiums for the year less all
43 direct reported loss and loss expense payments made on compensation claims
44 incurred in the corresponding year.

1 (ii) The present value at six per cent interest of all determined and
2 estimated future direct reported loss and loss expense payments on
3 compensation claims incurred in that year.

4 E. On or before April 15 and on any ~~time~~ DATE that the department of
5 insurance specifically requests, an insurance carrier shall file with the
6 department of insurance the information necessary to compute the required
7 amount to be deposited pursuant to subsection D of this section and shall
8 deposit any required additional amount.

9 F. An insurance carrier shall maintain at all times a deposit of cash
10 or securities with the state treasurer, through the director of insurance, in
11 an amount that is not less than the amount required under this section.

12 G. Cash or securities deposited pursuant to this section are subject
13 to approval by the director of insurance at all times. The director of
14 insurance shall hold the cash or securities for fulfillment of the
15 obligations of the insurance carrier, including an insurance carrier acting
16 as a reinsurer, under this chapter. The commission shall have a lien against
17 the cash or securities deposited to the extent the special fund is liable to
18 pay the obligations secured by the cash or securities.

19 H. Except in the event of nonpayment of premiums, each insurance
20 carrier shall carry a risk to the conclusion of the policy period unless the
21 policy is cancelled by the employer or unless one or both of the parties to a
22 professional employer agreement terminate the agreement. The policy period
23 shall be agreed upon by the insurance carrier and the employer.

24 I. At least thirty days' notice shall be given by the insurance
25 carrier to the employer and to the commission of any cancellation or
26 nonrenewal of a policy if the cancellation or nonrenewal is at the election
27 of the insurance carrier. The insurance carrier shall promptly notify the
28 commission of any cancellation by the employer or failure of the employer to
29 renew the policy. The failure to give notice of nonrenewal if the nonrenewal
30 is at the election of the insurance carrier shall not extend coverage beyond
31 the policy period. An insurance carrier shall notify the commission on a
32 form prescribed by the commission that it has insured an employer for
33 workers' compensation promptly after undertaking to insure the employer.

34 J. Every insurance carrier, including the state compensation fund,
35 ~~shall~~ on or before March 1 of each year SHALL pay to the state treasurer for
36 the credit of the administrative fund, in lieu of all other taxes on workers'
37 compensation insurance, a tax of not more than three per cent on all premiums
38 collected or contracted for during the year ending December 31 next
39 preceding, less the deductions from such total direct premiums for applicable
40 cancellations, returned premiums and all policy dividends or refunds paid or
41 credited to policyholders within this state and not reapplied as premiums for
42 new, additional or extended insurance. Every self-insured employer,
43 including workers' compensation pools, ~~shall~~ on or before March 31 of each
44 year SHALL pay a tax of not more than three per cent of the premiums which
45 would have been paid by the employer if the employer had been fully insured

1 under a plan available from the state compensation fund during the preceding
2 calendar year. The commission shall adopt rules ~~which~~ THAT shall specify
3 those methods to be used for the calculation of rates and premiums and ~~which~~
4 THAT shall be the basis for the taxes assessed to self-insured employers.
5 The tax shall be not less than two hundred fifty dollars per annum and shall
6 be computed and collected by the commission and paid to the state treasurer
7 for the credit of the administrative fund at a rate not exceeding three per
8 cent to be fixed annually by the industrial commission. The rate shall be no
9 more than is necessary to cover the actual expenses of the industrial
10 commission in carrying out its powers and duties under this title. Any
11 quarterly payments of tax pursuant to subsection ~~K~~ L of this section shall
12 be deducted from the tax payable pursuant to this subsection.

13 K. AN INSURANCE CARRIER MAY REDUCE THE AMOUNT OF PREMIUMS PAID BY AN
14 EMPLOYER BY UP TO FIVE PER CENT IF ALL OF THE FOLLOWING APPLY:

15 1. THE INSURED EMPLOYER COMPLIES WITH THE DRUG TESTING POLICY
16 REQUIREMENTS PRESCRIBED IN SECTION 23-493.04.

17 2. THE INSURED EMPLOYER CONDUCTS DRUG TESTING OF PROSPECTIVE
18 EMPLOYEES.

19 3. THE INSURED EMPLOYER CONDUCTS DRUG TESTING OF AN EMPLOYEE AFTER THE
20 EMPLOYEE HAS BEEN INJURED.

21 4. THE INSURED EMPLOYER ALLOWS THE EMPLOYER'S INSURANCE CARRIER TO
22 HAVE ACCESS TO THE DRUG TESTING RESULTS UNDER PARAGRAPHS 2 AND 3 OF THIS
23 SUBSECTION.

24 ~~K~~ L. Any insurer which, pursuant to this section, paid or is
25 required to pay a tax of two thousand dollars or more for the preceding
26 calendar year shall file a quarterly report, in a form prescribed by the
27 commission, accompanied by a payment in an amount equal to the tax due at the
28 rates prescribed in subsection J of this section for premiums determined
29 pursuant to subsection J of this section or an amount equal to twenty-five
30 per cent of the tax paid or required to be paid pursuant to subsection J of
31 this section for the preceding calendar year. The quarterly payments shall
32 be due and payable on or before the last day of the month following the close
33 of the quarter and shall be made to the state treasurer.

34 ~~L~~ M. If an overpayment of taxes results from the method prescribed
35 in subsection ~~K~~ L of this section the industrial commission may refund the
36 overpayment without interest.

37 ~~M~~ N. An insurer who fails to pay the tax prescribed by subsection J
38 or ~~K~~ L of this section or the amount prescribed by section 23-1065,
39 subsection A is subject to a civil penalty equal to the greater of
40 twenty-five dollars or five per cent of the tax or amount due plus interest
41 at the rate of one per cent per month from the date the tax or amount was
42 due.

43 ~~N~~ O. Neither the state compensation fund nor an insurance carrier
44 authorized to write workers' compensation insurance may assess an employer
45 premiums for services provided by a contractor alleged to be an employee

1 under section 23-902, subsection B or C, unless the fund or carrier has done
2 both of the following:

3 1. Prepared written audit or field investigation findings establishing
4 that all applicable factors for determining employment status under section
5 23-902 have been met.

6 2. Provided a copy of such findings to the employer in advance of
7 assessing a premium.

8 ~~Q.~~ P. Notwithstanding section 23-901, paragraph 6, subdivision (i), a
9 sole proprietor may waive the sole proprietor's rights to workers'
10 compensation coverage and benefits if both the sole proprietor and the
11 insurance carrier of the employer subject to this chapter for which the sole
12 proprietor performs services sign and date a waiver which is substantially in
13 the following form:

14 I am a sole proprietor, and I am doing business as
15 (name of sole proprietor). I am performing work as an
16 independent contractor for (name of employer). I am not the
17 employee of (name of employer) for workers' compensation
18 purposes, and, therefore, I am not entitled to workers'
19 compensation benefits from (name of employer). I understand
20 that if I have any employees working for me, I must maintain
21 workers' compensation insurance on them.

22 _____
23 Sole proprietor Date
24 _____
25 Insurance carrier Date

26 Sec. 3. Section 23-1065, Arizona Revised Statutes, is amended to read:
27 23-1065. Special fund; purposes; investment committee

28 A. The industrial commission may direct the payment into the state
29 treasury of not to exceed one and one-half per cent of all premiums received
30 by the state compensation fund and private insurance carriers during the
31 immediately preceding calendar year. The same percentage shall be assessed
32 against self-insurers based on the total cost to the self-insured employer as
33 provided in section 23-961, subsection J. Such assessments shall be computed
34 on the same premium basis as provided for in section 23-961, subsections J,
35 K, L, ~~and~~ M AND N and shall be no more than is necessary to keep the special
36 fund actuarially sound. Such payments shall be placed in a special fund
37 within the administrative fund to provide, at the discretion of the
38 commission, such additional awards as may be necessary to enable injured
39 employees to accept the benefits of any law of the state or of the United
40 States, or both jointly, for promotion of vocational rehabilitation of
41 persons disabled in industry.

42 B. In claims involving an employee who has a preexisting
43 industrially-related permanent physical impairment of the type specified in
44 section 23-1044, subsection B and who thereafter suffers an additional
45 permanent physical impairment of the type specified in such subsection, the

1 claim involving the subsequent impairment is eligible for reimbursement, as
2 provided by subsection D of this section, according to the following:

3 1. The employer in whose employ the subsequent impairment occurred or
4 its insurance carrier is solely responsible for all temporary disability
5 compensation to which the employee is entitled and for an amount equal to the
6 permanent disability compensation provided by section 23-1044, subsection B
7 for the subsequent impairment. If the employee is determined to have
8 sustained no loss of earning capacity after the medically stationary date,
9 the employer or carrier shall pay him as a vocational rehabilitation bonus
10 the amount calculated under this paragraph as a lump sum, which shall be a
11 credit against any permanent compensation benefits awarded in any subsequent
12 proceeding. The amount of the vocational rehabilitation bonus for which the
13 employer or carrier is responsible under this paragraph shall be calculated
14 solely on physical, medically rated permanent impairment and not on
15 occupational or other factors.

16 2. If the commission determines that the employee is entitled to
17 compensation for loss of earning capacity under section 23-1044, subsection C
18 or permanent total disability under section 23-1045, subsection B, the total
19 amount of permanent benefits for which the employer or carrier is solely
20 responsible under paragraph 1 of this subsection shall be expended first,
21 with monthly payments made according to the loss of earning capacity or
22 permanent total disability award. The employer or carrier and the special
23 fund are equally responsible for the remaining amount of compensation for
24 loss of earning capacity under section 23-1044, subsection C or permanent
25 total disability under section 23-1045, subsection B. This paragraph shall
26 not be construed as requiring payment of any benefits under section 23-1044,
27 subsection B in any case in which an employee is entitled to benefits for
28 loss of earning capacity under section 23-1044, subsection C or permanent
29 total disability benefits under section 23-1045, subsection B.

30 C. In claims involving an employee who has a preexisting physical
31 impairment which is not industrially-related and, whether congenital or due
32 to injury or disease, is of such seriousness as to constitute a hindrance or
33 obstacle to employment or to obtaining reemployment if the employee becomes
34 unemployed, and the impairment equals or exceeds a ten per cent permanent
35 impairment evaluated in accordance with the American medical association
36 guides to the evaluation of permanent impairment, and the employee thereafter
37 suffers an additional permanent impairment not of the type specified in
38 section 23-1044, subsection B, the claim involving the subsequent impairment
39 is eligible for reimbursement, as provided by subsection D of this section,
40 under the following conditions:

41 1. The employer in whose employ the subsequent impairment occurred or
42 its carrier is solely responsible for all temporary disability compensation
43 to which the employee is entitled.

1 2. The employer had knowledge of the permanent impairment at the time
2 the employee was hired, or that the employee continued in employment after
3 the employer acquired such knowledge.

4 3. The employee's preexisting impairment is due to one or more of the
5 following:

- 6 (a) Epilepsy.
- 7 (b) Diabetes.
- 8 (c) Cardiac disease.
- 9 (d) Arthritis.
- 10 (e) Amputated foot, leg, arm or hand.
- 11 (f) Loss of sight of one or both eyes or a partial loss of uncorrected
12 vision of more than seventy-five per cent bilaterally.
- 13 (g) Residual disability from poliomyelitis.
- 14 (h) Cerebral palsy.
- 15 (i) Multiple sclerosis.
- 16 (j) Parkinson's disease.
- 17 (k) Cerebral vascular accident.
- 18 (l) Tuberculosis.
- 19 (m) Silicosis.
- 20 (n) Psychoneurotic disability following treatment in a recognized
21 medical or mental institution.
- 22 (o) Hemophilia.
- 23 (p) Chronic osteomyelitis.
- 24 (q) Hyperinsulinism.
- 25 (r) Muscular dystrophies.
- 26 (s) Arteriosclerosis.
- 27 (t) Thrombophlebitis.
- 28 (u) Varicose veins.
- 29 (v) Heavy metal poisoning.
- 30 (w) Ionizing radiation injury.
- 31 (x) Compressed air sequelae.
- 32 (y) Ruptured intervertebral disk.

33 4. The employer or carrier and the special fund are equally
34 responsible for the amount of compensation for loss of earning capacity under
35 section 23-1044, subsection C or permanent total disability under section
36 23-1045, subsection B.

37 D. The employer or insurance carrier shall notify the commission of
38 its intent to claim reimbursement for an eligible claim under subsection B or
39 C of this section not later than the time the employer or insurance carrier
40 notifies the commission pursuant to section 23-1047, subsection A. Upon
41 receiving notice the commission may expend funds from the special fund
42 created by this section for travel and discovery procedures and for the
43 employment of such independent legal, medical, rehabilitation, claims or
44 labor market consultants or experts as may be deemed necessary by the
45 commission to assist in the determination of the liability of the special

1 fund, if any, under subsection B or C of this section. In the event there is
2 any dispute regarding liability to the special fund pursuant to subsection B
3 or C of this section, the commission shall not delay the issuance of a
4 permanent award pursuant to section 23-1047, subsection B.

5 E. If the special fund created by this section is determined to be
6 liable under either subsection B or C of this section, the employer or
7 insurance carrier which is primarily liable shall pay the entire amount of
8 the award to the injured employee and the commission shall by rule provide
9 for the reimbursement of the employer or insurance carrier on an annual
10 basis. In any case arising out of subsection B or C of this section, the
11 written approval of the special fund is required for the compromise of any
12 claim made pursuant to section 23-1023. In any such case, written approval
13 shall not be unreasonably withheld by the special fund, carrier, self-insured
14 employer or other person responsible for the payment of compensation.
15 Failure to obtain the written approval of the special fund shall not cause
16 the injured worker to lose any benefits but ends the special fund's liability
17 for reimbursement and makes the employer or carrier solely responsible for
18 the payment of the remaining benefits.

19 F. The employer or insurance carrier shall make its claim for
20 reimbursement to the commission no later than November 1 each year, for
21 payments made pursuant to subsection B or C of this section during the twelve
22 months prior to October 1 each year. Claims shall be paid before December 31
23 each year. If the total annual reserved liabilities of the special fund
24 obligated under subsections B and C of this section exceed six million
25 dollars, as determined by the annual actuarial study performed pursuant to
26 subsection I of this section, the commission, after notice and a hearing, may
27 levy an additional assessment under subsection A of this section of up to
28 one-half per cent to meet such liabilities. Any insurance carrier or
29 employer who may be adversely affected by the additional assessment may at
30 any time prior to the sixtieth day after such additional assessment is
31 ordered file a complaint challenging the validity of the additional
32 assessment in the superior court in Maricopa county for a judicial review of
33 the additional assessment. On judicial review the determination of the
34 commission shall be upheld if supported by substantial evidence in the record
35 considered as a whole.

36 G. In the event the injured employee is awarded additional
37 compensation, under subsection A of this section, the commission retains
38 jurisdiction to amend, alter or change the award upon a change in the
39 physical condition of the injured employee resulting from the injury.

40 H. On receiving notice that the special fund may be liable under this
41 chapter, the commission may spend monies from the special fund established by
42 this section for expenses that are necessary to assist in the processing,
43 payment or determination of liability of the fund. These expenses may
44 include travel, discovery procedures and employing any legal, medical,
45 rehabilitation, claims or labor market consultant, examiner or expert.

1 I. The commission shall cause an annual actuarial study of the special
2 award fund to be made by a qualified actuary who is a member of the society
3 of actuaries. The actuary shall make specific recommendations for
4 maintaining the fund on a sound actuarial basis. The actuarial study shall
5 be completed on or before September 1.

6 J. The special fund of the commission consists of all monies from
7 premiums and assessments, except penalties assessed pursuant to this chapter,
8 received and paid into the fund, property and securities acquired by the use
9 of monies in the fund, interest earned on monies in the fund and other monies
10 derived from the sale, use or lease of properties belonging to the fund. The
11 special fund created by this section shall be administered by the director of
12 the industrial commission, subject to the authority of the industrial
13 commission. The director of the commission with approval of the investment
14 committee, in the administration of the special fund, may provide loans,
15 subject to repayment, budgetary review and legislative appropriation, to the
16 administrative fund for the purposes and subject to section 23-1081, acquire
17 real property and acquire or construct a building or other improvements on
18 the real property as may be necessary to house, contain, furnish, equip and
19 maintain offices and space for departmental and operational facilities of the
20 commission. The commission when using space constructed pursuant to this
21 section shall make equal payments of rent on a semiannual basis which shall
22 be deposited in the special fund. The investment committee shall determine
23 the amount of the rent which must be at least equal to or greater than that
24 determined by the joint committee on capital review for buildings of similar
25 design and construction as provided by section 41-792.01.

26 K. There is established an investment committee consisting of the
27 director and the chairman of the commission and three persons knowledgeable
28 in investments and economics appointed by the governor. Of the members
29 appointed by the governor, one shall be a professional in the investment
30 business, one shall represent workers' compensation insurers and one shall
31 represent self-insurers. The term of members appointed by the governor is
32 three years which shall begin on July 1 and end on June 30 three years later.
33 The committee shall prescribe by rule investment policies and supervise the
34 investment activities of the special fund.

35 L. Each member of the investment committee, other than the director of
36 the commission, is eligible to receive from the special fund:

37 1. Compensation of fifty dollars for each day while in actual
38 attendance at meetings of the investment committee.

39 2. Reimbursement for expenses pursuant to title 38, chapter 4,
40 article 2.

41 M. The investment committee shall meet at least once every month.

42 N. The investment committee shall periodically review and assess the
43 investment strategy.

1 O. The investment committee, by resolution, may invest and reinvest
2 the surplus or reserves in the funds established under this chapter in any
3 legal investments authorized under section 38-719.

4 P. In addition to the investments authorized under section 38-719, the
5 investment committee may approve the investment in real property and
6 improvements on real property to house and maintain offices of the
7 commission, including spaces for its departmental and operational facilities.
8 Title to the real estate and improvements on the real estate vests in the
9 special fund of the commission, and the assets become part of the fund as
10 provided by this section.

11 Q. The investment committee may appoint a custodian for the
12 safekeeping of all or any portion of the investments owned by the special
13 fund of the commission and may register stocks, bonds and other investments
14 in the name of a nominee. Except for investments held by a custodian or in
15 the name of a nominee, all securities purchased pursuant to subsection O of
16 this section shall promptly be deposited with the state treasurer as
17 custodian thereof, who shall collect the dividends, interest and principal
18 thereof, and pay, when collected, into the special fund. The state treasurer
19 shall pay all vouchers drawn for the purchase of securities. The director
20 may sell any of the securities as the director deems appropriate, if
21 authorized by resolution of the investment committee, and the proceeds
22 therefrom shall be payable to the state treasurer for the account of the
23 special fund upon delivery of the securities to the purchaser or the
24 purchaser's agent.