

House Engrossed Senate Bill

~~real property conveyances; formal requirements~~
(now: industrial commission; revisions)

State of Arizona
Senate
Fifty-seventh Legislature
Second Regular Session
2026

SENATE BILL 1254

AN ACT

AMENDING SECTIONS 23-107, 23-110, 23-401, 23-405, 23-406, 23-408, 23-409, 23-415, 23-417, 23-418, 23-423, 23-426, 23-428, 23-433, 23-471, 23-474, 23-477, 23-478, 23-491, 23-491.03, 23-491.04, 23-491.08, 23-491.09, 23-1065 AND 41-1005, ARIZONA REVISED STATUTES; RELATING TO THE INDUSTRIAL COMMISSION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 23-107, Arizona Revised Statutes, is amended to
3 read:

4 23-107. General powers

5 A. The commission has full power, jurisdiction and authority to:

6 1. Formulate and adopt rules and regulations for effecting the
7 purposes of this article.

8 2. Administer and enforce all laws for the protection of life,
9 health, safety and welfare of employees in every case and under every law
10 when such duty is not specifically delegated to any other board or
11 officer, and, when such duty is specifically delegated, to counsel, advise
12 and assist in the administration and enforcement of such laws and for such
13 purposes may conduct investigations.

14 3. Promote the voluntary arbitration, mediation and conciliation of
15 disputes between employers and employees.

16 ~~4. License and supervise the work of private employment offices,
17 bring together employers seeking employees and working people seeking
18 employment, and make known the opportunities for employment in the state.~~

19 ~~5.~~ 4. Collect, collate and publish all statistical and other
20 information relating to employees, employers, employments and places of
21 employment with other appropriate statistics.

22 ~~6.~~ 5. Act as the regulatory agency ~~insuring~~ ENSURING that workers'
23 compensation carriers are processing claims in accordance with chapter 6
24 of this title.

25 ~~7.~~ 6. Provide nonpublic, confidential or privileged documents,
26 materials or other information to another state, local or federal
27 regulatory agency for the purpose of the legitimate administrative needs
28 of the programs administered by that agency if the recipient agency agrees
29 and warrants that it has the authority to maintain and will maintain the
30 confidentiality and privileged status of the documents, materials or other
31 information.

32 ~~8.~~ 7. Receive nonpublic documents, materials and other information
33 from another state, local or federal regulatory agency to properly
34 administer programs of the commission. The commission shall maintain as
35 confidential or privileged any document, material or other information
36 that is identified by the exchange agency as confidential or privileged
37 under the laws of the jurisdiction that is the source of the document,
38 material or other information.

39 ~~9.~~ 8. Enter into agreements that govern the exchange of nonpublic
40 documents, materials and other information that are consistent with
41 paragraphs ~~7~~ 6 and ~~8~~ 7 OF THIS SUBSECTION. The commission may request
42 nondisclosure of information that is identified as privileged or
43 confidential. Any disclosure pursuant to paragraph ~~7~~ 6 or ~~8~~ 7 OF THIS
44 SUBSECTION or this paragraph is not a waiver of any applicable privilege

1 or claim of confidentiality in the documents, materials or other
2 information.

3 B. ~~upon~~ ON petition by any person that any employment or place of
4 employment is not safe or is injurious to the welfare of any employee, the
5 commission has power and authority, with or without notice, to make
6 investigations necessary to determine the matter complained of.

7 C. The members of the commission may confer and meet with officers
8 of other states and officers of the United States on matters pertaining to
9 their official duties.

10 D. Notwithstanding any other law, the commission may protect from
11 public inspection the financial information that is received from a
12 private entity that applies to self-insure or that renews its
13 self-insurance plan pursuant to section 23-961, subsection A if the
14 information is kept confidential by the private entity in its ordinary and
15 regular course of business.

16 Sec. 2. Section 23-110, Arizona Revised Statutes, is amended to
17 read:

18 23-110. Industrial commission of Arizona resource officer

19 A. The director of the industrial commission OF ARIZONA shall
20 employ ~~an ombudsman~~ A RESOURCE OFFICER to assist recipients of ~~workers'~~
21 ~~compensation~~ benefits UNDER THE INDUSTRIAL COMMISSION OF ARIZONA'S
22 PURVIEW.

23 B. The ~~ombudsman~~ RESOURCE OFFICER shall not provide legal advice
24 but may provide information about the workers' compensation system and
25 rules governing commission proceedings and may assist in clarifying the
26 methods used to determine a person's workers' compensation benefits.

27 C. THE RESOURCE OFFICER MAY ALSO PROVIDE INFORMATION ABOUT THE
28 LABOR PROGRAMS UNDER THE INDUSTRIAL COMMISSION OF ARIZONA'S PURVIEW AND
29 RULES GOVERNING THE COMMISSION PROCEEDINGS FOR THESE MATTERS.

30 Sec. 3. Section 23-401, Arizona Revised Statutes, is amended to
31 read:

32 23-401. Definitions

33 In this article, unless the context otherwise requires:

34 1. "Board" means a review board established pursuant to section
35 23-422.

36 2. "CHIEF" MEANS THE CHIEF OF THE DIVISION.

37 ~~3.~~ 3. "Commission" means the industrial commission of Arizona.

38 ~~4.~~ 4. "De minimis violation" means a condition or practice that,
39 although undesirable, has no direct or immediate relationship to safety or
40 health.

41 ~~4. "Director" means the director of the division.~~

42 5. "Division" means the division of occupational safety and health
43 within the commission.

1 6. "Employee" means any person performing services for an employer,
2 including any person defined as an employee pursuant to section 23-901,
3 except employees engaged in household domestic labor.

4 7. "Employer":

5 (a) Means any individual or type of organization, including this
6 state and all political subdivisions of this state, that has in its employ
7 one or more individuals performing services for it in employment. ~~and~~

8 (b) Includes self-employed persons. ~~, but~~

9 (c) Does not include employers of household domestic labor.

10 8. "Interested party" means the commission and the commission's
11 agents, the employer and the affected employees of such employer.

12 9. "Model system" means an exemplary and ~~voluntary~~ VOLUNTARILY
13 implemented worker safety and health management system that BOTH:

14 (a) Exceeds basic compliance with occupational safety and health
15 laws and regulations.

16 (b) Meets the requirements adopted by the division pursuant to
17 section 23-432.

18 10. "~~Non-serious~~ NONSERIOUS violation" means a condition or
19 practice in a place of employment that does not constitute a serious
20 violation but that violates a standard or regulation and has a direct or
21 immediate relationship to safety or health, unless the employer did not,
22 and could not with the exercise of reasonable diligence, know of the
23 presence of such condition or practice.

24 11. "Program" means the voluntary protection program or any other
25 program under which the ~~director~~ CHIEF recognizes and partners with
26 workplaces that have implemented a model system.

27 12. "Recognized hazard" means an unsafe or unhealthful condition or
28 practice recognized as such with respect to the standard of knowledge in
29 the industry.

30 13. "Regulation" means any written regulation of occupational
31 safety and health governing places of employment formulated pursuant to
32 section 23-410, exclusive of standards, and ~~shall have~~ HAS the same
33 meaning as and ~~include~~ INCLUDES the term "rule".

34 14. "Serious violation" means a condition or practice in a place of
35 employment that violates a standard, A regulation or section 23-403,
36 subsection A and produces a substantial probability that death or serious
37 physical harm could result, unless the employer did not, and could not
38 with the exercise of reasonable diligence, know of the presence of such
39 condition or practice.

40 15. "Standard" means any occupational safety and health standard
41 that has been adopted and promulgated by a nationally recognized
42 standards-producing organization or the federal government and ~~shall have~~
43 HAS the same meaning as, ~~and~~ ~~include~~ INCLUDES the term "code".

1 professional appropriate to ~~his~~ THE PERSON'S field of safety and health or
2 has been certified as competent within the broad practice of safety or
3 health or one of its relevant specialties by an organization recognized as
4 qualified by the American society of safety engineers or American
5 industrial hygiene association.

6 2. Competent to deal with the planning, design and needs of
7 business operations as the use of such operations relates to the safe,
8 convenient and economic performance of their business functions, with not
9 less than three years' experience in an administrative capacity in the
10 field of occupational safety and health.

11 D. The salary of the ~~director~~ CHIEF shall be determined pursuant to
12 section 38-611.

13 Sec. 6. Section 23-408, Arizona Revised Statutes, is amended to
14 read:

15 23-408. Inspection of places and practices of employment;
16 closing conference; prohibitions; employee
17 initiation of investigation; violation;
18 classification; injunction

19 A. Except as prescribed in section 23-432, subsection E, the
20 ~~director~~ CHIEF of the division ~~of occupational safety and health~~, or the
21 ~~director's~~ CHIEF'S authorized representative, on presentation of
22 credentials, shall be ~~permitted~~ ALLOWED to inspect places of employment,
23 question employees and investigate conditions, practices or matters in
24 connection with employment subject to this article at reasonable times, as
25 the ~~director~~ CHIEF or the ~~director's~~ CHIEF'S authorized representative may
26 deem appropriate to determine whether any person has violated ~~any~~
27 ~~provision of~~ this article or any rule or regulation issued pursuant to
28 this article or that may aid in the enforcement of this article. An
29 employer or other person shall not refuse to admit the ~~director~~ CHIEF or
30 the ~~director's~~ CHIEF'S authorized representatives to any place or refuse
31 to ~~permit~~ ALLOW the inspection if the proper credentials are presented and
32 the inspection is made at a reasonable time.

33 B. In making inspections and investigations, the ~~director~~ CHIEF or
34 the ~~director's~~ CHIEF'S authorized representative may require the
35 attendance and testimony of witnesses and the production of evidence under
36 oath. Witnesses shall be paid the same fees and mileage paid to witnesses
37 in the courts of this state. If any person fails or refuses to obey such
38 an order, the ~~director~~ CHIEF or the ~~director's~~ CHIEF'S authorized
39 representative may apply to any superior court in any county where the
40 person is found, resides or transacts business for an order requiring the
41 person to produce evidence and to give testimony as ordered. Failure to
42 obey such an order is contempt of court.

43 C. The ~~director~~ CHIEF or the ~~director's~~ CHIEF'S authorized
44 representative shall inspect at least every six months any operation that
45 mixes rock, sand, gravel or similar materials with water and cement or

1 with asphalt and that is not included in the definition of mine in section
2 27-301. The ~~director~~ CHIEF or the ~~director's~~ CHIEF'S authorized
3 representative shall monitor and work with the mine inspector only to the
4 extent necessary to ensure this state's compliance with federal
5 occupational safety and health act standards, ~~---~~ (P.L. 91-596).

6 D. Notice of an intended inspection shall not be given to an
7 employer before the time of actual entry on the workplace, except by
8 specific authorization by the ~~director~~ CHIEF.

9 E. A representative of the employer and a representative authorized
10 by the employer's employees shall be given an opportunity to accompany the
11 ~~director~~ CHIEF or the ~~director's~~ CHIEF'S authorized representative during
12 the physical inspection of any workplace for the purpose of aiding the
13 inspection. ~~Where~~ IF there is no authorized employee representative, the
14 ~~director~~ CHIEF or the ~~director's~~ CHIEF'S authorized representative shall
15 consult a reasonable number of employees concerning matters of safety and
16 health in the workplace.

17 F. The ~~director~~ CHIEF may not allow any individual to accompany a
18 compliance safety and health officer when conducting inspections for the
19 ~~industrial~~ commission ~~of Arizona~~ pursuant to this section unless the
20 individual is any of the following:

21 1. An employee of the employer being inspected.

22 2. A safety consultant, attorney or other agent of the employer or
23 a person present with the consent of the employer.

24 3. The authorized employee representative. For the purposes of
25 this paragraph, "authorized employee representative" means an agent of a
26 labor organization that has a collective bargaining relationship with the
27 employer who represents employees who are members of the collective
28 bargaining unit.

29 4. A third party who is required by law to accompany the compliance
30 safety and health officer to ensure that the state plan is at least as
31 effective as the standards of the occupational safety and health act of
32 1970 (P.L. 91-596; 84 Stat. 1590).

33 5. Otherwise required by law to be present.

34 G. The employer may require the following conditions for a third
35 party who accompanies a compliance safety and health officer during an
36 inspection pursuant to subsection F of this section:

37 1. That not more than one individual be present unless otherwise
38 required by law.

39 2. That the individual follow all workplace safety rules regarding
40 personal protective equipment applicable to all visitors for the
41 workplace.

42 3. That the individual ~~is required to~~ complete any safety trainings
43 applicable to all visitors of the workplace.

1 4. That the individual sign a confidentiality agreement with
2 respect to the use of confidential information that is learned during the
3 inspection that has the same terms as required for other visitors.

4 5. That nonemployees, other than the compliance safety and health
5 officer, ~~are~~ BE prohibited from entering areas that contain trade secrets.
6 The compliance safety and health officer may consult with a reasonable
7 number of employees who work in the identified trade secret area on
8 matters of safety and health, even if those employees are not joining the
9 inspection. Information obtained by the commission or its representatives
10 during the inspection that contains or that may reveal a trade secret is
11 subject to section 23-426.

12 H. Except as provided in section 23-426, information and facts
13 developed by the commission, the ~~director~~ CHIEF or any employee of the
14 commission or division in the course of any inspection or investigation
15 are public records subject to inspection pursuant to title 39, chapter 1,
16 article 2, if, pursuant to section 23-415, subsection D, the inspection or
17 investigation has been closed or a citation has been issued. Such
18 information and facts shall not be admissible in any court or before any
19 administrative body except pursuant to this article. Notwithstanding this
20 subsection, the ~~director~~ CHIEF or any commission employee is not required
21 to appear at any deposition, trial or hearing concerning a division
22 inspection or investigation unless the appearance is related to a hearing
23 held pursuant to this article. Hearings held pursuant to this article are
24 open to the public.

25 I. During the inspection or investigation and in deciding whether
26 to recommend and issue a citation, the ~~director~~ CHIEF or the ~~director's~~
27 CHIEF'S authorized representative and the commission may consider whether
28 an employee has committed misconduct by violating the employer's policies,
29 if any, regarding substance abuse while working, as evidenced by the
30 results of testing for substance abuse or other evidence of impairment
31 while working.

32 J. An employee of the division or the commission may not:

33 1. Before, during or after an inspection or investigation,
34 communicate to an employer that the employer should not be represented by
35 an attorney or that the employer may be treated more favorably by the
36 division or the commission if the employer is not represented by an
37 attorney.

38 2. Conduct an audio recording of an oral statement provided during
39 an interview without the knowledge and consent of the person being
40 interviewed. The employee of the division or the commission shall inform
41 the person being interviewed of the person's right to receive a copy of
42 the recorded oral statement within a reasonable time.

1 3. Obtain a written statement during an interview without informing
2 the person of the person's right to receive a copy of the written
3 statement within a reasonable time.

4 K. An employee or a representative of employees who believes that a
5 violation of a safety or health standard or regulation exists that
6 threatens physical harm or that an imminent danger exists may request an
7 investigation by giving notice to the ~~director~~ CHIEF or the ~~director's~~
8 CHIEF'S authorized representative of the violation or danger. Any notice
9 shall be in writing, set forth with reasonable particularity the grounds
10 for the notice and be signed by the employees or representative of the
11 employees. On the request of the employee giving the notice, the
12 employee's name and the names of other employees referred to in the notice
13 shall not appear on any copy of the notice or any record published,
14 released or made available. If on receipt of the notice the ~~director~~
15 CHIEF determines that there are reasonable grounds to believe that the
16 violation or danger exists, the ~~director~~ CHIEF shall make an investigation
17 in accordance with this article as soon as practicable to determine if the
18 violation or danger exists. If the ~~director~~ CHIEF determines there are no
19 reasonable grounds to believe that a violation or danger exists, the
20 ~~director~~ CHIEF shall notify the employees or representative of the
21 employees in writing of the determination.

22 L. Any person who violates ~~any provision of~~ this section is guilty
23 of a class 2 misdemeanor.

24 M. The commission, or the commission's authorized representative,
25 in addition to initiating an action under subsection K of this section,
26 may file in the superior court in the county where the inspection was
27 refused a verified complaint against an employer who violates subsection A
28 of this section and request an injunction against continued refusal to
29 ~~permit~~ ALLOW an inspection.

30 N. At least thirty days before the ~~industrial~~ commission ~~of Arizona~~
31 submits the state plan proposal or proposed adoption to the United States
32 occupational safety and health administration, the commission shall submit
33 the state plan proposal or proposed adoption to the joint legislative
34 audit committee, which may review and recommend that the commission amend
35 the state plan proposal or proposed adoption.

36 Sec. 7. Section 23-409, Arizona Revised Statutes, is amended to
37 read:

38 23-409. Advisory committees

39 A. The commission shall create an occupational safety and health
40 advisory committee to assist the commission in drafting standards and
41 regulations. The committee may be asked to perform other functions as may
42 be necessary. The committee shall be appointed by the commission and
43 shall be composed of a reasonably balanced representation of regulated
44 industries, including agriculture, and labor and other persons
45 knowledgeable in safety and health and shall serve at the will of the

1 commission. The commission may establish other committees as it deems
2 necessary. The advisory committees may be paid their reasonable and
3 necessary travel and other expenses in accordance with standard travel
4 regulations.

5 B. The ~~director~~ CHIEF shall be an ex officio member of any advisory
6 committee established pursuant to this section.

7 Sec. 8. Section 23-415, Arizona Revised Statutes, is amended to
8 read:

9 23-415. Citations

10 A. If the ~~director~~ CHIEF, following an inspection or investigation
11 determines that there is reasonable cause to believe that A violation
12 exists ~~he~~, THE CHIEF shall with reasonable promptness issue a citation to
13 the employer. Each citation shall be in writing and shall contain the
14 following:

15 1. A particular description of the nature of the violation,
16 including a reference to the provision of this article, or of any standard
17 or regulation alleged to have been violated.

18 2. A reasonable time for the abatement of the violation.

19 3. A notice that the employer may request a hearing pursuant to
20 section 23-420 if ~~he~~ THE EMPLOYER is aggrieved by the citation.

21 B. A certified mail delivery receipt or a signed verification of
22 delivery in person shall be prima facie evidence of receipt of a citation.

23 C. Each citation issued under this section or a copy or copies
24 ~~thereof~~ OF EACH CITATION shall be prominently posted at or near each place
25 a violation referred to in the citation existed.

26 D. ~~No~~ A citation may NOT be issued after the expiration of a period
27 of six months from the date of the inspection or investigation ~~which~~ THAT
28 produced evidence of the violation.

29 Sec. 9. Section 23-417, Arizona Revised Statutes, is amended to
30 read:

31 23-417. Enforcement procedure

32 A. If the ~~director~~ CHIEF, following an inspection or investigation,
33 issues a citation pursuant to section 23-415 the ~~director~~ CHIEF, within a
34 reasonable time after termination of the inspection or investigation,
35 shall notify the employer by mail of any penalty proposed to be assessed
36 pursuant to section 23-418 and that the employer has fifteen working days
37 within which to notify the ~~director~~ CHIEF in writing if the employer
38 wishes to contest the citation or proposed assessment of penalty. If the
39 employer fails to notify the ~~director~~ CHIEF in writing within fifteen
40 working days ~~of~~ AFTER receipt of the notice that the employer intends to
41 contest the citation or penalty and a notice is not filed by any employee
42 or representative of employees pursuant to subsection D of this section
43 within such time, the citation and the assessment, as proposed, shall be a
44 final order of the commission and not subject to review by any court or
45 agency, except that the ~~director~~ CHIEF may excuse any late notification to

1 contest a citation only if the employer to whom the notice was sent shows
2 by clear and convincing evidence that the notice was not received.

3 B. The period allowed for correction of a violation shall not begin
4 to run until the entry of a final order in the case of any review
5 proceedings pursuant to this section initiated by the employer in good
6 faith and not solely for delay or avoidance of penalties. If the division
7 has reason to believe an employer has failed to correct a violation for
8 which a citation has been issued within the period allowed, the ~~director~~
9 CHIEF shall notify the employer by mail of such failure, of the penalty
10 proposed to be assessed pursuant to section 23-418 and that the employer
11 has fifteen working days within which to notify the ~~director~~ CHIEF in
12 writing if the employer wishes to contest the notification or proposed
13 assessment of penalty. If the employer fails to notify the ~~director~~ CHIEF
14 in writing within fifteen working days of receipt of the notice that the
15 employer intends to contest the notice or penalty, the notice and
16 assessment, as proposed, shall be deemed a final order of the commission
17 and not subject to review by any court or agency.

18 C. Any employer who corrects the violations for which a citation
19 was issued within the period allowed shall so notify the ~~director~~ CHIEF in
20 writing.

21 D. Any affected employee or employee representative may request a
22 hearing to appeal the period allowed an employer to abate a particular
23 violation pursuant to section 23-420 if the affected employee or employee
24 representative files the appeal with the ~~director~~ CHIEF within the
25 abatement period allowed in the citation or within fifteen days after the
26 date of receipt of the citation, whichever is shorter.

27 E. On a showing by an employer of a good faith effort to comply
28 with the abatement requirements of a citation, and that abatement has not
29 been completed because of factors beyond the reasonable control of the
30 employer, the commission or its authorized designee, after an opportunity
31 for a hearing as provided in section 23-420, shall issue an order
32 affirming or modifying the abatement requirements in such citation. The
33 rules of procedure prescribed by the commission shall provide affected
34 employees or representatives of affected employees an opportunity to
35 participate as parties to hearings under this subsection.

36 Sec. 10. Section 23-418, Arizona Revised Statutes, is amended to
37 read:

38 23-418. Penalties; violation; classification

39 A. Any employer who wilfully or repeatedly violates the
40 requirements of section 23-403 or any standard or regulation adopted
41 pursuant to section 23-410 or 23-414 or this article may be assessed a
42 civil penalty for each wilful violation of not more than the maximum civil
43 penalty, but not less than the minimum civil penalty, for wilful or
44 repeated violations adopted by the United States occupational safety and

1 health administration pursuant to the federal civil penalties inflation
2 adjustment act improvements act of 2015 (P.L. 114-74; 129 Stat. 599).

3 B. Any employer ~~who~~ THAT has received a citation for a serious
4 violation of this article shall be assessed a civil penalty for each such
5 violation of not more than the maximum civil penalty for serious
6 violations adopted by the United States occupational safety and health
7 administration pursuant to the federal civil penalties inflation
8 adjustment act improvements act of 2015 (P.L. 114-74; 129 Stat. 599).

9 C. Any employer that has received a citation for a nonserious
10 violation of this article may be assessed a civil penalty for each such
11 violation of not more than the maximum civil penalty for nonserious
12 violations adopted by the United States occupational safety and health
13 administration pursuant to the federal civil penalties inflation
14 adjustment act improvements act of 2015 (P.L. 114-74; 129 Stat. 599).

15 D. Any employer that fails to correct a violation for which PERIOD
16 a citation has been issued within the abatement period allowed for its
17 correction, which shall be suspended in case of a review proceeding before
18 an administrative law judge or the review board initiated by the employer
19 in good faith and not solely for delay or avoidance of penalties, may be
20 assessed a civil penalty of not more than the maximum civil penalty for
21 abatement violations adopted by the United States occupational safety and
22 health administration pursuant to the federal civil penalties inflation
23 adjustment act improvements act of 2015 (P.L. 114-74; 129 Stat. 599) for
24 each day during which such failure or violation continues after the
25 abatement date.

26 E. Any employer that knowingly violates the requirements of section
27 23-403 or any standard or regulation adopted pursuant to section 23-410 or
28 23-414 or this article and that violation causes death to an employee is
29 guilty of a class 6 felony, except that if the conviction is for a second
30 or subsequent violation the employer is guilty of a class 5 felony.

31 F. Any person who knowingly gives advance notice of any inspection
32 to be conducted under this article without authority from the ~~director~~
33 CHIEF is guilty of a class 2 misdemeanor.

34 G. A person who knowingly makes any false statement, representation
35 or certification in any application, record, report, plan or other
36 document filed or required to be maintained pursuant to this article is
37 guilty of a class 2 misdemeanor.

38 H. Any employer that violates any of the posting requirements of
39 this article shall be assessed a civil penalty for each violation of not
40 more than the maximum civil penalty for posting violations adopted by the
41 United States occupational safety and health administration pursuant to
42 the federal civil penalties inflation adjustment act improvements act of
43 2015 (P.L. 114-74; 129 Stat. 599).

1 I. The commission shall have authority to assess all civil
2 penalties provided in this section, giving due consideration to the
3 appropriateness of the penalty with respect to the gravity of the
4 violation, the number of employees employed by the employer, the good
5 faith of the employer and the history of previous violations under this
6 article.

7 J. Civil penalties owed under this article shall be paid to the
8 commission for deposit in the state general fund. After an order or
9 decision on a civil penalty becomes final pursuant to section 23-417,
10 23-421 or 23-423, the civil penalty shall act as a judgment against the
11 employer. The commission shall file the civil penalty in the office of
12 the clerk of the superior court in any county in this state and the clerk
13 shall enter the civil penalty in the civil order book and judgment docket.
14 When the civil penalty is filed and entered it is a lien for eight years
15 after the date of the final order or decision on the property of the
16 employer located in the county. Execution may issue on the civil penalty
17 within eight years in the same manner and with like effect as a judgment
18 of the superior court. The civil penalty judgment shall accrue interest
19 pursuant to section 44-1201. The commission may recover reasonable
20 attorney fees incurred pursuant to this section.

21 Sec. 11. Section 23-423, Arizona Revised Statutes, is amended to
22 read:

23 23-423. Review board rights and procedures; definition

24 A. A request for review to the review board shall be filed with the
25 commission within fifteen days after the date the decision was mailed or
26 ~~e-mailed~~ EMAILED to the parties and copies of the request shall be mailed
27 to all other parties to the proceeding before the administrative law
28 judge. ~~For the purposes of this section, "filed" means deposited in the~~
29 ~~United States mail, postage prepaid or actually received by the~~
30 ~~commission.~~

31 B. The request for review shall state the grounds for review and
32 whether oral argument is requested.

33 C. When review has been requested, the record of such oral
34 proceedings at the hearing before the administrative law judge for
35 purposes of the review shall be transcribed at the expense of the party
36 requesting review. The record shall be certified to be true and correct
37 by the office of administrative hearings.

38 D. The board shall give the parties notice of review by mail or
39 ~~e-mail~~ EMAIL.

40 E. If oral argument is requested, a hearing date shall be
41 established and notice of the hearing date will be sent with the notice of
42 review to the parties.

1 F. The review of the board shall be based on the record submitted
2 to it under subsection C of this section and such oral argument as may be
3 requested and received. If the board determines that a case has been
4 improperly, incompletely or otherwise insufficiently developed or heard by
5 the administrative law judge, it may remand the case to the administrative
6 law judge for further evidence taking, correction or other necessary
7 action.

8 G. The board may affirm, reverse, modify or supplement the decision
9 of the administrative law judge and make such disposition of the case as
10 it determines to be appropriate. The board shall make a decision within
11 thirty days after review has been submitted.

12 H. The decision of the board shall be filed with the commission and
13 a copy of the decision sent by mail or ~~e-mail~~ EMAIL to the parties. All
14 decisions of the review board shall be in writing. Decisions of the review
15 board shall be made by a majority vote of the review board. A decision of
16 the review board is binding on the ~~director~~ CHIEF and the division with
17 respect to the parties involved in the particular appeal. The ~~director~~
18 CHIEF shall have the right to seek judicial review of a review board
19 decision irrespective of whether or not the ~~director~~ CHIEF appeared or
20 participated in the appeal to the review board.

21 I. The decision of the board is final unless within ten days after
22 the date of service of copies of such decision on the parties, one of the
23 parties applies to the court of appeals for a writ of certiorari to review
24 the lawfulness of the decision. A copy of such application shall be
25 forthwith transmitted to the clerk of the court, to the review board, to
26 the commission and to the other parties and within ten days therefrom, the
27 commission shall certify the record, proceedings and evidence before the
28 administrative law judge and the review board to the court of appeals. On
29 such filing, the court shall have jurisdiction of the proceedings and of
30 the question determined therein, and shall have power to make and enter on
31 the pleadings, testimony and proceedings set forth in such record a decree
32 affirming, modifying or setting aside in whole or in part, the order of
33 the review board and enforcing the same to the extent that such order is
34 affirmed or modified. The commencement of proceedings under this
35 subsection does not, unless ordered by the court, operate as a stay of the
36 order of the review board. No objection that has not been urged before
37 the review board shall be considered by the court, unless the failure or
38 neglect to urge such objection shall be excused because of extraordinary
39 circumstances. The findings of the review board with respect to questions
40 of fact, if supported by substantial evidence on the record considered as
41 a whole, shall be conclusive. If any party applies to the court for leave
42 to adduce additional evidence and shows to the satisfaction of the court
43 that such additional evidence is material and that there were reasonable
44 grounds for the failure to adduce such evidence in the hearing before the
45 administrative law judge, the court may order such additional evidence to

1 be taken before the administrative law judge and to be made a part of the
2 record. Petitions filed under this subsection shall be heard
3 expeditiously and the decision of the review board shall contain a
4 statement of this right of appeal.

5 J. FOR THE PURPOSES OF THIS SECTION, "FILED" MEANS DEPOSITED IN THE
6 UNITED STATES MAIL, POSTAGE PREPAID, OR ACTUALLY RECEIVED BY THE
7 COMMISSION.

8 Sec. 12. Section 23-426, Arizona Revised Statutes, is amended to
9 read:

10 23-426. Confidentiality of trade secrets

11 All information reported to or likewise obtained by the commission
12 or its representatives in connection with any inspection or investigation
13 under this article ~~which~~ THAT contains or ~~which~~ THAT might reveal a trade
14 secret shall be considered confidential for the purpose of this article,
15 except that such information may be disclosed to other representatives of
16 the division or commission concerned with carrying out this article or
17 when relevant in any proceeding under this article. In any such
18 proceeding, the ~~director~~ CHIEF, the commission, the administrative law
19 judge, the review board or the courts shall issue orders as may be
20 appropriate to protect the confidentiality of trade secrets.

21 Sec. 13. Section 23-428, Arizona Revised Statutes, is amended to
22 read:

23 23-428. State legal representation

24 A. The office of the chief counsel of the industrial commission of
25 Arizona may appear for and represent the commission or the ~~director~~ CHIEF
26 or ~~his~~ THE CHIEF'S authorized representative in any civil litigation
27 brought under this article.

28 B. In any criminal proceeding initiated under this article, the
29 office of the chief counsel of the industrial commission of Arizona may
30 appear for, represent and prosecute in the name of ~~the~~ THIS state ~~of~~
31 ~~Arizona~~.

32 Sec. 14. Section 23-433, Arizona Revised Statutes, is amended to
33 read:

34 23-433. Consulting program

35 A. The division shall develop a consulting program ~~utilizing~~ THAT
36 USES visits to the workplace of employers to provide consultation and
37 advice to such employers. Such visits:

38 1. May be conducted only ~~upon~~ ON request by an employer for
39 consultation and advice on the interpretation or applicability of
40 standards, possible alternative ways of complying with applicable
41 standards or other matters related to accident prevention, occupational
42 health or obligations pursuant to this article.

43 2. Shall be limited to matters specified in the request.

1 B. If, after evaluating such request, the ~~director~~ CHIEF determines
2 an alternative means of providing consultation is more appropriate and
3 equally effective, ~~he~~ THE CHIEF may provide such alternative means rather
4 than consultation at the workplace.

5 C. The ~~director~~ CHIEF shall make recommendations regarding
6 solutions to matters within the scope of the workplace consultation.

7 D. No visit pursuant to this section shall be regarded as an
8 inspection or investigation pursuant to section 23-415. No citation shall
9 be issued nor shall any civil penalties be proposed ~~upon~~ ON such visit,
10 except that ~~nothing in~~ this section ~~shall~~ DOES NOT affect in any manner
11 any provision of this article the purpose of which is to eliminate
12 imminent danger violations.

13 Sec. 15. Section 23-471, Arizona Revised Statutes, is amended to
14 read:

15 23-471. Definitions

16 In this article, unless the context otherwise requires:

17 1. "Authorized representative" means the ~~boiler chief and~~ boiler
18 inspector employed by the division.

19 2. "Boiler" means a closed vessel in which water or other liquid is
20 heated, steam or vapor is generated or steam or vapor is superheated, or
21 any combination thereof, under pressure or vacuum for a use that is
22 external to itself, by the direct application of heat from the combustion
23 of fuels or from electricity.

24 3. "Certificate" means a certificate of competency.

25 4. "Certificate inspection" means an internal inspection, when
26 construction permits, otherwise it means as complete an inspection as
27 possible.

28 5. "CHIEF" MEANS THE CHIEF OF THE DIVISION.

29 ~~5.~~ 6. "Commission" means the industrial commission of Arizona.

30 ~~6. "Director" means the director of the division of occupational
31 safety and health.~~

32 7. "Division" means the BOILER division of ~~occupational safety and
33 health of~~ the commission.

34 8. "Heating boilers" means a steam or vapor boiler operating at a
35 pressure not exceeding fifteen pounds per square inch or a hot water
36 boiler operating at a pressure not exceeding one hundred sixty pounds per
37 square inch or a temperature not exceeding two hundred fifty degrees
38 Fahrenheit.

39 9. "High temperature water boiler" means a water boiler intended
40 for operation at pressures in excess of one hundred sixty pounds per
41 square inch or temperatures in excess of two hundred fifty degrees
42 Fahrenheit.

43 10. "Interested party" means the commission, agents of the
44 commission and any owner or operator who has been issued a notice of
45 violation.

1 11. "Lined hot water heater" means a fired lined water heater with
2 linings providing corrosion resistance for supplying potable hot water for
3 commercial purposes. Lined hot water heaters are exempted when none of
4 the following limitations are exceeded:

5 (a) Heat input of two hundred thousand British thermal units per
6 hour.

7 (b) Water temperature of two hundred ten degrees Fahrenheit.

8 (c) Nominal water-containing capacity of one hundred twenty
9 gallons.

10 12. "Owner" or "operator" means any individual or type of
11 organization, including this state and all political subdivisions of this
12 state, that has title to or controls, or has the duty to control, the
13 operation of one or more boilers, pressure vessels or lined hot water
14 heaters.

15 13. "Power boiler" means a boiler in which steam or other vapor is
16 generated at a pressure more than fifteen pounds per square inch.

17 14. "Pressure vessel" means a container for the containment of
18 pressure, either internal or external. The pressure may be obtained from
19 an external source, or by the application of heat from a direct or
20 indirect source, or any combination thereof.

21 15. "Process boiler" means a heating boiler or a power boiler used
22 for processing purposes where the make-up water exceeds ten percent.

23 Sec. 16. Section 23-474, Arizona Revised Statutes, is amended to
24 read:

25 23-474. Duties of commission

26 The commission shall:

27 1. Administer this article through the BOILER division ~~of~~
28 ~~occupational safety and health.~~

29 2. Adopt standards and regulations pursuant to section 23-475 and
30 adopt other rules as are necessary.

31 3. Exercise other powers as are necessary to carry out the duties
32 and requirements of this article.

33 Sec. 17. Section 23-477, Arizona Revised Statutes, is amended to
34 read:

35 23-477. Notice requesting investigation

36 A. Any person may make a request for an investigation by the
37 division into alleged violations of section 23-473 by giving notice to the
38 ~~director~~ CHIEF or the ~~director's~~ CHIEF'S authorized representative of such
39 violation or danger. Such notice shall be reduced to writing, set forth
40 with reasonable particularity the grounds for the notice and be signed.

41 B. If, ~~upon~~ ON receipt of such notification, the ~~director~~ CHIEF
42 determines that there are reasonable grounds to believe that such
43 violation or danger exists, the ~~director~~ CHIEF shall make an investigation
44 pursuant to this article as soon as practicable to determine if such
45 violation or danger exists. If the ~~director~~ CHIEF determines there are no

1 reasonable grounds to believe that a violation or danger exists, the
2 ~~director~~ CHIEF shall notify the requesting party in writing of such
3 determination.

4 Sec. 18. Section 23-478, Arizona Revised Statutes, is amended to
5 read:

6 23-478. Enforcement

7 A. If the division, following an inspection or investigation
8 determines that there is reasonable cause to believe that there exists a
9 violation of a standard or regulation the division shall issue a notice of
10 violation directing any repairs, improvements, changes or additions
11 necessary to eliminate the hazard. Each notice of violation shall be in
12 writing, delivered either by mail or in person and shall contain the
13 following:

14 1. A particular description of the nature of the violation,
15 including a reference to the provision of this article or of any standard
16 or regulation alleged to have been violated.

17 2. A reasonable time for the abatement of the violation.

18 B. Each notice of violation issued pursuant to this section or a
19 copy or copies of such notice of violation shall be prominently posted at
20 or near each place a violation referred to in the notice of violation
21 existed.

22 C. If in the opinion of the ~~director~~ CHIEF or the ~~director's~~
23 CHIEF'S authorized representative the continued operation of the defective
24 boiler, pressure vessel or lined hot water heater constitutes an immediate
25 danger to the safety of the occupants of the establishment or the persons
26 operating such boiler, pressure vessel or lined hot water heater the
27 ~~director~~ CHIEF or ~~director's~~ CHIEF'S authorized representative may condemn
28 such device and require the boiler, pressure vessel or lined hot water
29 heater to be returned to a condition allowing safe operation before use of
30 the boiler, pressure vessel or lined hot water heater is resumed.

31 D. On failure of an owner or operator to comply with either the
32 requirements of a notice of violation issued pursuant to subsection A of
33 this section or condemnation pursuant to ~~this~~ subsection C OF THIS
34 SECTION, the commission may file an action in the superior court in the
35 county where the violation occurred to enjoin the owner or operator from
36 engaging in further acts in violation of the requirements of the notice of
37 violation or the condemnation. Any person found to be in contempt of an
38 injunctive order of the court shall be fined not less than ~~fifty~~ \$50 nor
39 more than ~~three hundred dollars~~ \$300 with each day of violation
40 constituting a separate contempt.

1 Sec. 19. Section 23-491, Arizona Revised Statutes, is amended to
2 read:

3 23-491. Definitions

4 In this article, unless the context otherwise requires:

5 1. "Authorized representative" means the ~~elevator chief and~~
6 elevator inspector employed by the division.

7 2. "Certificate" means a certificate of inspection issued by the
8 division.

9 3. "CHIEF" MEANS THE CHIEF OF THE DIVISION.

10 ~~3.~~ 4. "Commission" means the industrial commission of Arizona.

11 ~~4.~~ 5. "Conveyance":

12 (a) Means an elevator, dumbwaiter, escalator, moving walk, manlift,
13 personnel hoist, material hoist, stage lift and special purpose personnel
14 elevator. ~~, excluding~~

15 (b) DOES NOT INCLUDE conveyances located at mines ~~and~~ THAT ARE
16 subject to regulation and inspection by the state mine inspector pursuant
17 to title 27, chapter 3.

18 ~~5. "Director" means the director of the division of occupational~~
19 ~~safety and health.~~

20 6. "Division" means the ELEVATOR division ~~of occupational safety~~
21 ~~and health~~ of the ~~industrial~~ commission.

22 7. "Dumbwaiter" means a hoisting and lowering mechanism with a car
23 of limited capacity and size that moves in guides in a substantially
24 vertical direction and that is used exclusively for carrying material.

25 8. "Elevator" means a hoisting and lowering mechanism equipped with
26 a car or platform that moves in guides in substantially vertical direction
27 and that serves two or more floors of a building or structure.

28 9. "Elevator company" means a person that is engaged in the
29 business of erecting, constructing, installing, altering, servicing,
30 repairing or maintaining conveyances.

31 10. "Escalator" means a ~~power-driven~~ POWER-DRIVEN, inclined,
32 continuous stairway used for raising or lowering passengers.

33 11. "Interested party" means the commission and its agents and the
34 owner or operator who has been issued a correction order.

35 12. "Manlift" means a device ~~consisting~~ THAT CONSISTS of a ~~power~~
36 ~~driven~~ POWER-DRIVEN endless belt moving in one direction only and provided
37 with steps or platforms and attached handholds for the transportation of
38 personnel from floor to floor.

39 13. "Material hoist" means a hoist for raising and lowering
40 materials only and prohibiting the hoisting of persons.

41 14. "Moving walk" means a type of ~~passenger-carrying~~
42 PASSENGER-CARRYING device on which passengers stand or walk and in which
43 the ~~passenger-carrying~~ PASSENGER-CARRYING surface remains parallel to its
44 direction of motion and is uninterrupted.

1 15. "Owner" or "operator":

2 (a) Means an individual or organization, including this state and
3 all political subdivisions of this state, ~~who~~ THAT has title to, controls
4 or has the duty to control the operation of one or more conveyances. ~~, but~~
5 ~~shaft~~

6 (b) DOES not include an individual or organization THAT IS engaged
7 in mining or metallurgical operations AND whose operation is subject to
8 regulation and inspection by the state mine inspector pursuant to title
9 27, chapter 3.

10 16. "Personnel hoist":

11 (a) Means a mechanism ~~for use~~ THAT IS USED in connection with the
12 construction, alteration, maintenance or demolition of a building,
13 structure or other work, THAT IS used for hoisting and lowering workers
14 and materials and THAT IS equipped with a car that moves on guide members
15 during its vertical movement. ~~The term~~

16 (b) Includes a hoistway of a personnel hoist.

17 17. "Private elevator inspector" means an individual who is
18 authorized by the commission under section 23-491.16 to conduct
19 inspections under this article.

20 18. "Special purpose personnel elevator" means a passenger, ~~hand~~
21 ~~powered~~ HAND-POWERED, counterweighted device or an ~~electric powered~~
22 ELECTRIC-POWERED device that travels vertically in guides and that serves
23 two or more landings.

24 19. "Stage lift" means a hoisting and lowering mechanism equipped
25 with a platform that moves in guides in a substantially vertical direction
26 and that serves one or more landings.

27 Sec. 20. Section 23-491.03, Arizona Revised Statutes, is amended to
28 read:

29 23-491.03. Existing conveyances

30 Existing conveyances lawfully installed ~~prior to~~ BEFORE the
31 effective date of this article may continue in use if the use is, in the
32 opinion of the ~~director~~ CHIEF, not a hazard to life, health or property.

33 Sec. 21. Section 23-491.04, Arizona Revised Statutes, is amended to
34 read:

35 23-491.04. Commission powers and duties

36 A. The commission shall:

37 1. Administer this article through the division ~~of occupational~~
38 ~~safety and health~~.

39 2. ~~Promulgate~~ ADOPT standards and regulations pursuant to section
40 23-491.06 as required and ~~promulgate~~ ADOPT such other rules and
41 regulations and exercise such other powers as are necessary to carry out
42 this article.

43 B. The commission, by rule and regulation, may set fees not to
44 exceed the actual cost for inspections performed pursuant to this article.

1 D. ~~Upon~~ ON failure of an owner or operator to comply with either
2 the requirements of a correction order issued pursuant to subsection A OF
3 THIS SECTION or condemnation pursuant to ~~this~~ subsection C OF THIS
4 SECTION, the commission may file an action in the superior court ~~of~~ IN the
5 county where the violation occurred to enjoin the owner or operator from
6 engaging in further acts in violation of the requirements of the
7 correction order or the condemnation. Any person found to be in contempt
8 of an injunctive order of the court shall be fined not less than ~~fifty~~ \$50
9 nor more than ~~three hundred dollars~~ \$300 with each day of violation
10 constituting a separate contempt.

11 Sec. 24. Section 23-1065, Arizona Revised Statutes, is amended to
12 read:

13 23-1065. Special fund; purposes; investment committee

14 A. The ~~industrial~~ commission may direct the payment into the state
15 treasury of not to exceed one percent of all premiums received by private
16 insurance carriers during the immediately preceding calendar year. The
17 same percentage shall be assessed against self-insurers based on the total
18 cost to the self-insured employer as provided in section 23-961,
19 subsection G. Such assessments shall be computed on the same premium
20 basis as provided for in section 23-961, subsections G, H, J, K and L and
21 shall be ~~no~~ NOT more than is necessary to keep the special fund
22 actuarially sound. Such payments shall be placed in a special fund within
23 the administrative fund to provide, at the discretion of the commission,
24 such additional awards as may be necessary to enable injured employees to
25 accept the benefits of any law of this state or of the United States, or
26 both jointly, for promotion of vocational rehabilitation of persons with
27 disabilities in industry.

28 B. In claims involving an employee who has a preexisting
29 ~~industrially-related~~ INDUSTRIALLY RELATED permanent physical impairment of
30 the type specified in section 23-1044, subsection B and who thereafter
31 suffers an additional permanent physical impairment of the type specified
32 in such subsection, the claim involving the subsequent impairment is
33 eligible for reimbursement, as provided by subsection D of this section,
34 according to the following:

35 1. The employer in whose employ the subsequent impairment occurred
36 or its insurance carrier is solely responsible for all temporary
37 disability compensation to which the employee is entitled and for an
38 amount equal to the permanent disability compensation provided by section
39 23-1044, subsection B for the subsequent impairment. If the employee is
40 determined to have sustained no loss of earning capacity after the
41 medically stationary date, the employer or carrier shall pay ~~him~~ THE
42 EMPLOYEE as a vocational rehabilitation bonus the amount calculated under
43 this paragraph as a lump sum, which shall be a credit against any
44 permanent compensation benefits awarded in any subsequent proceeding. The
45 amount of the vocational rehabilitation bonus for which the employer or

1 carrier is responsible under this paragraph shall be calculated solely on
2 physical, medically rated permanent impairment and not on occupational or
3 other factors.

4 2. If the commission determines that the employee is entitled to
5 compensation for loss of earning capacity under section 23-1044,
6 subsection C or permanent total disability under section 23-1045,
7 subsection B, the total amount of permanent benefits for which the
8 employer or carrier is solely responsible under paragraph 1 of this
9 subsection shall be expended first, with monthly payments made according
10 to the loss of earning capacity or permanent total disability award. The
11 employer or carrier and the special fund are equally responsible for the
12 remaining amount of compensation for loss of earning capacity under
13 section 23-1044, subsection C or permanent total disability under section
14 23-1045, subsection B. This paragraph ~~shall~~ DOES not ~~be construed as~~
15 ~~requiring~~ REQUIRE payment of any benefits under section 23-1044,
16 subsection B in any case in which an employee is entitled to benefits for
17 loss of earning capacity under section 23-1044, subsection C or permanent
18 total disability benefits under section 23-1045, subsection B.

19 C. In claims involving an employee who has a preexisting physical
20 impairment that is not ~~industrially-related~~ INDUSTRIALLY RELATED and,
21 whether congenital or due to injury or disease, is of such seriousness as
22 to constitute a hindrance or obstacle to employment or to obtaining
23 reemployment if the employee becomes unemployed, and the impairment equals
24 or exceeds a ten percent permanent impairment evaluated in accordance with
25 the American medical association guides to the evaluation of permanent
26 impairment, and the employee thereafter suffers an additional permanent
27 impairment not of the type specified in section 23-1044, subsection B, the
28 claim involving the subsequent impairment is eligible for reimbursement,
29 as provided by subsection D of this section, under the following
30 conditions:

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

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

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

39 (a) Epilepsy.

40 (b) Diabetes.

41 (c) Cardiac disease.

42 (d) Arthritis.

43 (e) Amputated foot, leg, arm or hand.

44 (f) Loss of sight of one or both eyes or a partial loss of
45 uncorrected vision of more than seventy-five percent bilaterally.

- 1 (g) Residual disability from poliomyelitis.
- 2 (h) Cerebral palsy.
- 3 (i) Multiple sclerosis.
- 4 (j) Parkinson's disease.
- 5 (k) Cerebral vascular accident.
- 6 (l) Tuberculosis.
- 7 (m) Silicosis.
- 8 (n) Psychoneurotic disability following treatment in a recognized
- 9 medical or mental institution.
- 10 (o) Hemophilia.
- 11 (p) Chronic osteomyelitis.
- 12 (q) Hyperinsulinism.
- 13 (r) Muscular dystrophies.
- 14 (s) Arteriosclerosis.
- 15 (t) Thrombophlebitis.
- 16 (u) Varicose veins.
- 17 (v) Heavy metal poisoning.
- 18 (w) Ionizing radiation injury.
- 19 (x) Compressed air sequelae.
- 20 (y) Ruptured intervertebral disk.

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

25 D. The employer or insurance carrier shall notify the commission of
26 its intent to claim reimbursement for an eligible claim under subsection B
27 or C of this section not later than the time the employer or insurance
28 carrier notifies the commission pursuant to section 23-1047, subsection A.
29 ~~Upon~~ ON receiving notice the commission may expend funds from the special
30 fund created by this section for travel and discovery procedures and for
31 the employment of such independent legal, medical, rehabilitation, claims
32 or labor market consultants or experts as may be deemed necessary by the
33 commission to assist in the determination of the liability of the special
34 fund, if any, under subsection B or C of this section. In the event there
35 is any dispute regarding liability to the special fund pursuant to
36 subsection B or C of this section, the commission shall not delay the
37 issuance of a permanent award pursuant to section 23-1047, subsection B.

38 E. If the special fund created by this section is determined to be
39 liable under either subsection B or C of this section, the employer or
40 insurance carrier that is primarily liable shall pay the entire amount of
41 the award to the injured employee and the commission shall by rule provide
42 for the reimbursement of the employer or insurance carrier on an annual
43 basis. In any case arising out of subsection B or C of this section, the
44 written approval of the special fund is required for the compromise of any
45 claim made pursuant to section 23-1023. In any such case, written

1 approval shall not be unreasonably withheld by the special fund, carrier,
2 self-insured employer or other person responsible for the payment of
3 compensation. Failure to obtain the written approval of the special fund
4 shall not cause the injured worker to lose any benefits but ends the
5 special fund's liability for reimbursement and makes the employer or
6 carrier solely responsible for the payment of the remaining benefits.

7 F. The employer or insurance carrier shall make its claim for
8 reimbursement to the commission not later than November 1 each year, for
9 payments made pursuant to subsection B or C of this section during the
10 twelve months before October 1 each year. Claims shall be paid before
11 December 31 each year. If the total annual reserved liabilities of the
12 special fund obligated under subsections B and C of this section exceed
13 ~~six million dollars~~ \$6,000,000, as determined by the annual actuarial
14 study performed pursuant to subsection I of this section, the commission,
15 after notice and a hearing, may levy an additional assessment under
16 subsection A of this section of up to one-half percent to meet such
17 liabilities. Any insurance carrier or employer ~~who~~ THAT may be adversely
18 affected by the additional assessment may at any time before the sixtieth
19 day after such additional assessment is ordered file a complaint
20 challenging the validity of the additional assessment in the superior
21 court in Maricopa county for a judicial review of the additional
22 assessment. On judicial review the determination of the commission shall
23 be upheld if supported by substantial evidence in the record considered as
24 a whole.

25 G. In the event the injured employee is awarded additional
26 compensation, under subsection A of this section, the commission retains
27 jurisdiction to amend, alter or change the award ~~upon~~ ON a change in the
28 physical condition of the injured employee resulting from the injury.

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

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

41 J. The special fund of the commission consists of all monies from
42 premiums and assessments, except penalties assessed pursuant to this
43 chapter, received and paid into the fund, property and securities acquired
44 by the use of monies in the fund, interest earned on monies in the fund
45 and other monies derived from the sale, use or lease of properties

1 belonging to the fund. The special fund created by this section shall be
2 administered by the director of the ~~industrial~~ commission, subject to the
3 authority of the ~~industrial~~ commission. The director of the commission
4 with approval of the investment committee, in the administration of the
5 special fund, may provide loans, subject to repayment, budgetary review
6 and legislative appropriation, to the administrative fund for the purposes
7 and subject to section 23-1081, acquire real property and acquire or
8 construct a building or other improvements on the real property as may be
9 necessary to house, contain, furnish, equip and maintain offices and space
10 for departmental and operational facilities of the commission. The
11 commission, when using space constructed pursuant to this section, shall
12 make equal payments of rent on a semiannual basis, which shall be
13 deposited in the special fund. The investment committee shall determine
14 the amount of the rent, which must be at least equal to or greater than
15 that determined by the joint committee on capital review for buildings of
16 similar design and construction as provided by section 41-792.01.

17 K. There is established an investment committee consisting of the
18 director and the chairman of the commission and three persons
19 knowledgeable in investments and economics appointed by the governor. Of
20 the members appointed by the governor, one shall be a professional in the
21 investment business, one shall represent workers' compensation insurers
22 and one shall represent self-insurers. The term of members appointed by
23 the governor is three years, which shall begin on July 1 and end on June
24 30 three years later. The committee shall prescribe by rule investment
25 policies and supervise the investment activities of the special fund.

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

28 1. Compensation of ~~fifty dollars~~ \$50 for each day while in actual
29 attendance at meetings of the investment committee.

30 2. Reimbursement for expenses pursuant to title 38, chapter 4,
31 article 2.

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

33 N. The investment committee shall periodically review and assess
34 the investment strategy.

35 O. The investment committee, by resolution, may invest and reinvest
36 the surplus or reserves in the funds established under this chapter in any
37 legal investments authorized under section 38-718.

38 P. In addition to the investments authorized under section 38-718,
39 the investment committee may approve the investment in real property and
40 improvements on real property to house and maintain offices of the
41 commission, including spaces for its departmental and operational
42 facilities. Title to the real estate and improvements on the real estate
43 vests in the special fund of the commission, and the assets become part of
44 the fund as provided by this section.

1 Q. The investment committee may appoint a custodian for the
2 safekeeping of all or any portion of the investments owned by the special
3 fund of the commission and may register stocks, bonds and other
4 investments in the name of a nominee. Except for investments held by a
5 custodian or in the name of a nominee, all securities purchased pursuant
6 to subsection 0 of this section shall promptly be deposited with the state
7 treasurer as custodian thereof, who shall collect the dividends, interest
8 and principal thereof, and pay, when collected, into the special
9 fund. The state treasurer shall pay all vouchers drawn for the purchase
10 of securities. The director may sell any of the securities as the
11 director deems appropriate, if authorized by resolution of the investment
12 committee, and the proceeds therefrom shall be payable to the state
13 treasurer for the account of the special fund ~~upon~~ ON delivery of the
14 securities to the purchaser or the purchaser's agent.

15 Sec. 25. Section 41-1005, Arizona Revised Statutes, is amended to
16 read:

17 41-1005. Exemptions

18 A. This chapter does not apply to any:

19 1. Rule that relates to the use of public works, including streets
20 and highways, under the jurisdiction of an agency if the effect of the
21 order is indicated to the public by means of signs or signals.

22 2. Order or rule of the Arizona game and fish commission that does
23 the following:

24 (a) Opens, closes or alters seasons or establishes bag or
25 possession limits for wildlife.

26 (b) Establishes a fee pursuant to section 5-321, 5-322 or 5-327.

27 (c) Establishes a license classification, fee or application fee
28 pursuant to title 17, chapter 3, article 2.

29 (d) Limits the number or use of licenses or permits that are issued
30 to nonresidents pursuant to section 17-332.

31 3. Rule relating to section 28-641 or to any rule regulating motor
32 vehicle operation that relates to speed, parking, standing, stopping or
33 passing enacted pursuant to title 28, chapter 3.

34 4. Rule concerning only the internal management of an agency that
35 does not directly and substantially affect the procedural or substantive
36 rights or duties of any segment of the public.

37 5. Rule that only establishes specific prices to be charged for
38 particular goods or services sold by an agency.

39 6. Rule concerning only the physical servicing, maintenance or care
40 of agency owned or operated facilities or property.

41 7. Rule or substantive policy statement concerning inmates or
42 committed youths of a correctional or detention facility in secure custody
43 or patients admitted to a hospital if made by the state department of
44 corrections, the department of juvenile corrections, the board of
45 executive clemency or the department of health services or a facility or

1 hospital under the jurisdiction of the state department of corrections,
2 the department of juvenile corrections or the department of health
3 services.

4 8. Form whose contents or substantive requirements are prescribed
5 by rule or statute and instructions for the execution or use of the form.

6 9. Capped fee-for-service schedule adopted by the Arizona health
7 care cost containment system administration pursuant to title 36,
8 chapter 29.

9 10. Fees prescribed by section 6-125.

10 11. Order of the director of water resources adopting or modifying
11 a management plan pursuant to title 45, chapter 2, article 9.

12 12. Fees established under section 3-1086.

13 13. Fees established under sections 41-4010 and 41-4042.

14 14. Rule or other matter relating to agency contracts.

15 15. Fees established under section 32-2067 or 32-2132.

16 16. Rules made pursuant to section 5-111, subsection A.

17 17. Rules made by the Arizona state parks board concerning the
18 operation of the Tonto natural bridge state park, the facilities located
19 in the Tonto natural bridge state park and the entrance fees to the Tonto
20 natural bridge state park.

21 18. Fees or charges established under section 41-511.05.

22 19. Emergency medical services protocols except as provided in
23 section 36-2205, subsection B.

24 20. Fee schedules established pursuant to section 36-3409.

25 21. Procedures of the state transportation board as prescribed in
26 section 28-7048.

27 22. Rules made by the state department of corrections.

28 23. Fees prescribed pursuant to section 32-1527.

29 24. Rules made by the department of economic security pursuant to
30 section 46-805.

31 25. Schedule of fees prescribed by section 23-908, EXCEPT THAT THE
32 INDUSTRIAL COMMISSION OF ARIZONA MUST POST THE SCHEDULE OF FEES ON ITS
33 WEBSITE AND PREPARE AND FILE A NOTICE OF PUBLIC INFORMATION WITH THE
34 WEBSITE ADDRESS TO BE PUBLISHED IN THE REGISTER.

35 26. Procedure that is established pursuant to title 23, chapter 6,
36 article 6.

37 27. Rules, administrative policies, procedures and guidelines
38 adopted for any purpose by the Arizona commerce authority pursuant to
39 chapter 10 of this title if the authority provides, as appropriate under
40 the circumstances, for notice of an opportunity for comment on the
41 proposed rules, administrative policies, procedures and guidelines.

42 28. Rules made by a marketing commission or marketing committee
43 pursuant to section 3-414.

1 29. Administration of public assistance program monies authorized
2 for liabilities that are incurred for disasters declared pursuant to
3 sections 26-303 and 35-192.

4 30. User charges, tolls, fares, rents, advertising and sponsorship
5 charges, services charges or similar charges established pursuant to
6 section 28-7705.

7 31. Administration and implementation of the hospital assessment
8 pursuant to section 36-2901.08, except that the Arizona health care cost
9 containment system administration must provide notice and an opportunity
10 for public comment at least thirty days before establishing or
11 implementing the administration of the assessment.

12 32. Rules made by the Arizona department of agriculture to adopt
13 and implement the provisions of the federal milk ordinance as prescribed
14 by section 3-605.

15 33. Rules made by the Arizona department of agriculture to adopt,
16 implement and administer the United States food and drug administration
17 produce safety rule (21 Code of Federal Regulations part 112) and any
18 other federal produce safety regulation, order or guideline or other
19 requirement adopted pursuant to the FDA food safety modernization act
20 (P.L. 111-353; 21 United States Code sections 2201 through 2252) as
21 provided by title 3, chapter 3, article 4.1.

22 34. Calculations that are performed by the department of economic
23 security and that are associated with the adjustment of the sliding fee
24 scale and formula for determining child care assistance pursuant to
25 section 46-805.

26 35. Rules made by the Arizona department of agriculture to
27 implement and administer the livestock operator fire and flood assistance
28 grant program established by section 3-109.03.

29 B. Notwithstanding subsection A, paragraph 21 of this section, if
30 the federal highway administration authorizes the privatization of rest
31 areas, the state transportation board shall make rules governing the lease
32 or license by the department of transportation to a private entity for the
33 purposes of privatization of a rest area.

34 C. Coincident with ~~the~~ making ~~of~~ a final rule pursuant to an
35 exemption from the applicability of this chapter under this section,
36 another statute or session law, the agency shall:

37 1. Prepare a notice and follow formatting guidelines prescribed by
38 the secretary of state.

39 2. Prepare the rulemaking exemption ~~notices~~ NOTICE pursuant to
40 chapter 6.2 of this title.

41 3. File ~~a copy of~~ the rule with the secretary of state for
42 publication pursuant to section 41-1012 ~~and provide a copy to the council.~~

43 4. PROVIDE A COPY OF THE RULE TO THE COUNCIL.

1 D. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
2 chapter do not apply to the Arizona board of regents and the institutions
3 under its jurisdiction, except that the Arizona board of regents shall
4 make policies or rules for the board and the institutions under its
5 jurisdiction that provide, as appropriate under the circumstances, for
6 notice of and opportunity for comment on the policies or rules proposed.

7 E. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
8 chapter do not apply to the Arizona state schools for the deaf and the
9 blind, except that the board of directors of all the state schools for the
10 deaf and the blind shall adopt policies for the board and the schools
11 under its jurisdiction that provide, as appropriate under the
12 circumstances, for notice of and opportunity for comment on the policies
13 proposed for adoption.

14 F. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
15 chapter do not apply to the state board of education, except that the
16 state board of education shall adopt policies or rules for the board and
17 the institutions under its jurisdiction that provide, as appropriate under
18 the circumstances, for notice of and opportunity for comment on the
19 policies or rules proposed for adoption. In order to implement or change
20 any rule, the state board of education shall provide at least two
21 opportunities for public comment. The state board of education shall
22 consider the fiscal impact of any proposed rule pursuant to this
23 subsection.

24 G. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
25 chapter do not apply to the state board for charter schools, except that
26 the board shall adopt policies or rules for the board and the charter
27 schools sponsored by the board that provide, as appropriate under the
28 circumstances, for notice of and opportunity for comment on the policies
29 or rules proposed for adoption. In order to implement or change any
30 policy or rule, the board shall provide at least two opportunities for
31 public comment. The state board for charter schools shall consider the
32 fiscal impact of any proposed rule pursuant to this subsection.