

APPENDIX C: DEVELOPMENTS IN STATE INSURANCE FUNDS

The following synopsis of developments in several state insurance funds provides background information for this study.

Many funds have gone through changes in structure over the past several years. These summaries are intended to provide some information on these changes relative to the nature of the changes and the reasons for the changes.

This information has been gathered from printed materials, general knowledge, and from conversations with persons in these areas. The information available varies for each state; the information is not intended to be complete, and has not been verified for accuracy. The purpose here is to provide only introductory, summary information on changes occurring in various states in general lay terms.

The presentation of this background information is not intended to infer that these changes should be made in California or that the results would be the same in California. There are many differences in these states from California that have to be considered; the differences may include the state constitution, state laws, legal interpretations, state precedents, the size of the Fund and the state, insurance conditions, residual market conditions, voluntary market conditions, state fund conditions, insured employer satisfaction, employee considerations, regulatory considerations, and time period differences, among others.

Colorado Compensation Insurance Authority (CCIA)

1. Structure

- CCIA is a state level authority.
- It is not a state agency.
- It is a non profit, public corporation and political subdivision that meets a public need.
- It is not part of the state's:
 - financial statements
 - budget
 - fiscal requirements
 - state controllers office
 - procurement procedures
 - civil service
- The state is involved in that:
 - the Governor appoints the Board of Directors
 - it is audited by the State Auditor
 - it reports annually to the Governor
 - it is regulated by the Insurance Department
 - the state invests the Authority money.
- It competes with private insurers.
- It is not in the Guaranty Fund.
- Policies are non-assessable.
- It pays part of a premium tax (for the unfunded liability of the second injury fund and others).
- It does not pay the general premium tax.

2. Residual Market

- The CCIA is the carrier of last resort.
- There has never been an assigned risk pool in Colorado.

3. History and Change

- The State Fund was established in 1915 when workers compensation began in Colorado.
- It was a state agency from 1915-1987.
- The enabling legislation to convert to an Authority was Senate Bill 22 of 1986.
- The resulting statutes are Title 8, Articles 40-54, (45 is the authority statute). There may have been some subsequent changes to these statute numbers.
- A Workers Compensation Reform Law was passed in 1991.

4. Reasons for Change

- Fund results were not good, surplus was depleted, and an unfunded liability resulted.
- Fund could not get state approval to hire people, or to spend money to get claim costs under control.
- Fund needed operating flexibility to compete in a competitive market.

5. Employees and Transition

- Employees were in civil service up to 1987.
- In 1987 they became "at will" employees.
- Employees were given 5 years to go to other state jobs.
- The salary plan is private. The Authority opted to stay in the state's Public Employees Retirement Plan.
- An early retirement program was developed for those close to retirement (5 years).

6. Surplus

- The previous entity and the Authority developed an unfunded liability.
- The Authority has developed a workout plan on the deficit with the Governor, the Legislature, and the Insurance Commissioner.

7. Environment and Experience

- The market is competitive among private insurers, the Authority, and self insurance.
- 200 companies compete for business.
- The Authority's market share is estimated at 44%, it has been as high as 52%.
- Oversight by the Board gives flexibility: meet monthly, policyholder insights, etc.
- Rates in Colorado have decreased since the Reform law of 1991.

Hawaii Employees Mutual Insurance Company (HEMIC)

1. Structure

- HEMIC is a legislatively created non-profit, independent corporation.
- It will be operated as a domestic mutual insurance company.
- It will not be in the Guaranty Fund.
- The Governor will appoint the first nine division directors, and they will be elected by policyholders at expiration. The insurance commissioner appoints one public member. An at large member is elected by the board.
- It will not be a state agency.
- It will be owned and governed by its policyholders.
- Its liabilities will not be deemed to constitute a debt or liability of the State of Hawaii, or a pledge of full faith and credit of the State.

2. Residual Market

- The assigned risk plan will be dissolved.
- HEMIC will become the market of last resort.

3. History and Changes

- Legislation creating HEMIC was passed in 1996.
- The proposed startup of HEMIC is 1997.
- Legislation is found in House Bill No. 3968, HD2, SD1.

4. Reasons for Change

- The Assigned risk plan had grown to 35% of the market.
- The residual market burden (losses) had grown.

5. Employees

- HEMIC employees will be privately employed.
- They will be new employees; there is no conversion from a previous entity.

6. Surplus

- Initial capitalization will be like the funding for any other private company, a full range of financing options.
- No state appropriations.
- The company is excluded from the surplus requirements of domestic mutual insurance through December 31, 2007.

Louisiana Workers Compensation Corporation (LWCC)

1. Structure

- LWCC is a private, non-profit mutual insurer established by the legislative Act 814 of 1991.
- LWCC is guaranteed by the full faith and credit of the State of Louisiana who will provide for claims if they exceed the assets of the company.
- The 12 member Board was initially appointed by the Governor with the exception of legislative members; some members will be elected thereafter by policyholders.
- LWCC is not a member of the Guaranty Fund and writes non-assessable policies.
- The company competes in the marketplace against private carriers and self-insurance.

2. Residual Market

- The assigned risk pool ceased to exist on October 1, 1993.
- LWCC became the residual market on the same date.

3. History and Changes

- Louisiana voters passed a constitutional amendment to form a private, non-profit workers compensation insurance company; Article X11, Section 8.1; and Act No 1073 of 1991.
- Act 814 of the 1991 legislature was the enabling legislation.

4. Reasons for Change

- The assigned risk pool had become 70% of the market.
- Its underwriting losses were large.
- Only a few private insurers were writing business.

5. Employees

- The corporation employees are privately employed.
- There was no transition of employees from a previous entity.

6. Surplus

- The corporation was given the authority to borrow \$5 million.

7. Environment

- The corporation sets its own rates and is not subject to the insurance commissioner on rates.
- Private companies are under a file and use rating law.
- Competition has come back to the workers compensation market with many companies writing workers compensation insurance.

8. LWCC Experience

- Combined ratios have been below 100% and surplus has grown to \$70 million.
- Estimated market share is 35%.
- Business is marketed through insurance agents.

Maine Employers' Mutual Insurance Company (MEMIC)

1. Structure

- MEMIC was created by the 1992 Legislature as an independent assessable domestic mutual insurance company organized under the Act and applicable provisions of the Insurance Code.
- MEMIC is not a state agency or instrumentality of the state.
- Nine incorporators were appointed by the Governor and the legislative committee.
- The initial 13 member Board of Directors was appointed by the incorporators.
- Nine members of the Board will be elected by policyholders of nine industry divisions, 3 appointed by the Governor, and the President of MEMIC.
- MEMIC is not a member of the Guaranty Fund; policies are assessable.
- MEMIC selected its investment manager.
- MEMIC business is produced through licensed agents.
- MEMIC pays state premium taxes.

2. Residual Market

- Under the 1992 Act, the assigned risk pool (ARP) ceased writing business on 1/1/93.
- MEMIC became the market of last resort on 1/1/93.

3. History and Changes

- A Blue Ribbon Commission was established to study workers compensation problems, and made recommendations.
- On October 6, 1992, the Governor signed an Act to Reform the Workers Compensation Act and Workers Compensation Insurance Laws, to become effective 1/1/93.
- Statutes are: Title 24-A.M.R.S.A, Chapter 47, Section 3306 - 3309.

4. Reasons for Change

- A voluntary market for workers compensation was virtually nonexistent in Maine.
- Private carriers were unwilling to write because of the imbalance between rates and benefits and because of the risk of assessment for Maine's residual market assessment.
- ARP market share reached nearly 90%.

5. Employees

- Employees are privately employed with a private compensation system and retirement plan.
- There was no transition from a previous entity.

6. Surplus

- MEMIC was authorized to borrow up to \$5 million from the 1992 funds of the residual market mechanism.
- A \$750,000 revolving line of credit was established with a bank.
- Each policyholder was required to make a capital contribution of 15% of the policyholder final audited premium. That contribution was reduced and has been eliminated effective 1/1/96.
- Return of capital is up to the Board and the Insurance Commissioner if MEMIC meets required surplus levels.
- MEMIC was given a 10 year exemption from required surplus levels, by statute.

7. Environment

- 80 private insurers are now authorized to write workers compensation in Maine.
- Market premium has declined by 1/3 since 1993 because of reforms and changes in culture.
- Rate regulation is open rating for the private carriers because of the 1992 Act, but prior approval for MEMIC until it meets regulatory surplus requirements.

8. Insureds

- MEMIC's theme for clients is "partners for workplace safety".

Accident Fund Company (AFC) - Michigan

1. Structure

- The Accident Fund of Michigan ("the Fund") was purchased by Blue Cross/Blue Shield and was named the "Accident Fund Company" (AFC).
- AFC is an independent, for profit corporation which exclusively sells workers compensation insurance to Michigan employers.
- All capital stock is owned by Blue Cross/Blue Shield of Michigan.

2. Residual Market

- AFC is not and has not been the residual market in Michigan.
- An assigned risk pool is and has been in place in Michigan.

3. History and Changes

- The Accident Fund of Michigan participated in the workers compensation market as a competitive state fund.
- There was litigation in Michigan over the Fund in the 1980's dealing with the status of the Fund and its surplus.
- In 1989 the Michigan Supreme Court ruled that the Fund was a state agency and the employees became state employees.
- Legislation allowing the sale of the Accident Fund of Michigan was completed in late 1993; the law expired 12/31/94; Senate Bill #1.
- The sale was approved by the Michigan Administration Board in June of 1994.
- Blue Cross/Blue Shield was the successful bidder.

4. Reasons for Change

- The principal reason for selling the Fund was the philosophy of the Governor to reduce the size and cost of state government.

5. Employees

- At the Fund, employees were state civil service workers.
- Employment level in 1993 was approximately 400.
- Employees had not attained civil service until 1989 when the courts said the Fund was a state agency. Prior to that time, employment was private.
- Employees were unionized in clerical areas.

6. Transition

- At the time of the sale, the employees ended their state service and became employees of the new company.
- AFC reportedly agreed to retain 100% of the staff for the first year with no reduction in pay and to retain at least 75% of the staff for the next four years.
- The old pension plan was frozen and employees were given additional years credit in the new plan.

7. Costs

- The bidding package set requirements on the buyer for taking on the employees.

8. Surplus

- The purchase price went to the State of Michigan's rainy day fund.

9. Issues

- A lawsuit by two Accident Fund policyholders questioned Michigan's legal ability to make the transfer and retain the proceeds of the sale. However, the Michigan Supreme Court approved the state's sale of the Fund in a December 30, 1994 ruling.

Minnesota State Fund Mutual Insurance Company (SFM)

1. Structure

- SFM is an independent self-supporting state fund; a corporation.
- It was formed as a new mutual insurance company in 1983, owned by the policyholders.
- Four members of the Board of Directors are appointed by the Governor, three are elected by policyholders, and two are ex-officio members.
- SFM is a member of the Guaranty Fund.
- It writes non-assessable policies.
- It does not have the full faith and credit of the State.
- It is not subject to open meeting rules.
- It is regulated by the Insurance Department.

2. Residual Market

- There is a separate assigned risk pool in Minnesota.
- SFM is not the market of last resort.
- The assigned risk pool currently writes about 21% of the market.

3. History and Changes

- 1983 brought significant workers compensation legislation in Minnesota including the mutual company and workers compensation reform legislation.

4. Reasons for Change

- High workers compensation costs, driven by high benefits, were a disadvantage to state businesses.
- Legislature wanted a new competitive force in the market, and wanted Minnesota data.
- A stable market for small risks was desired.

5. Employees

- SFM hiring was done in the private sector.
- There are no ties to state civil service.
- SFM was a new entity and there was no conversion from a previous entity.

6. Surplus

- The Legislature authorized an interest bearing loan.
- Guaranty Fund Certificates were the vehicle.

- The legislation gave no waiver on regulatory surplus requirements.

7. Environment

- Competition is among private carriers, self-insurance, SFM or the assigned risk pool.
- SFM market share is estimated at 10%.
- Minnesota has adopted open rating.

Missouri Employers Mutual Insurance Company (MEM)

1. Structure

- MEM is an independent, private domestic insurance company created by the legislature in 1993.
- It is a not-for-profit corporation.
- It is not a state agency or instrumentality.
- It is a member of the guarantee fund.
- The governor appointed the 5 member Board of Directors. Upon expiration of terms the Board members will be elected by the policyholders.
- MEM competes in the marketplace for workers compensation customers.
- Policies are non assessable.

2. Residual Market

- MEM is not the residual market.
- An assigned risk plan exists but it is being depopulated.
- The Department of Insurance requested proposals for an alternative residual market plan. A private carrier won the assignment, and since 7/1/95 has been the market of last resort, on a year to year basis, up to a certain loss ratio.

3. History and Changes

- There was no state fund in Missouri for workers compensation insurance.
- The Missouri Residual Market Plan (MRMP) was the market of last resort.
- MRMP's market share was in the 30% to 36% range in the early 1990's.
- MRMP had resulted in losses in the 1980's and early 1990's for the industry.
- Senate Bill 251 was passed on June 21, 1993; effective 8/28/93 (a bill to reform the Workers Compensation Act and Workers Compensation Insurance Law).
- Revised Statutes of Missouri: 287.900 - 287.920
- MEM was created by the Certificate of Organization filed in October of 1994.
- The assigned risk plan was taken over by a private insurer on 7/1/95 on a limited basis.

4. Reasons for Change

- For some areas of the state, and for some agents, private insurance carriers were not writing business, and there was no workers compensation market except the assigned risk plan.
- In the late 1980's and early 1990's the losses in the assigned risk plan were significant.

- There was a need to provide employers with the means to control and reduce workers compensation costs.
5. Employees
- MEM employees are privately employed.
 - There was no conversion from a previous entity as MEM is a new company.
6. Surplus
- MEM's initial capitalization was provided by a \$5 million, 5 year note, at 2% interest made available by the Division of Workers Compensation Employers Fund.
 - Senate Bill 251 authorized MEM to issue up to \$40 million in revenue bonds.
7. Environment
- Employers may insure with private carriers, MEM, the Residual Market Plan, or self-insure.
 - Rating Law: a use and file open rating law since 1995.
8. MEM experience
- MEM estimates its market share at 17% of state premiums.
 - MEM business is written through agents.
 - Senate Bill 251 requires MEM to give preference to accounts of \$10,000 or less in premium, but MEM does not limit itself to those accounts.
9. Other Stakeholders
- The Missouri Insurance Commissioner has issued a waiver of normal surplus (capital) requirements for 7 years while MEM builds its surplus.

New Mexico Mutual Casualty Company (NMMCC)

1. Structure

- NMMCC is a private, not for profit, mutual insurance company created by the 1990 Legislature to write workers compensation insurance in New Mexico.
- It has all powers and responsibilities of a mutual insurance company.
- It is not a state agency.
- It competes with private carriers and self-insureds.
- Southwest Casualty is a subsidiary company that writes more hazardous accounts at higher prices.
- Five of the nine Board members are appointed by the Governor, three are elected by policyholders.
- NMMCC is a member of the Guaranty Fund and writes non assessable policies.
- It pays state premium taxes.

2. Residual Market

- An assigned risk pool (ARP) is in place in New Mexico.
- The ARP has a 15% market share.
- NMMCC is a servicing carrier to the ARP, and insures 33% of the ARP.
- In five years, the ARP has dropped from \$115 million in premium to \$10 million in premium.
- NMMCC is not the market of last resort.

3. History and Changes

- Major workers compensation legislation was passed in the second special session of the 1990 Legislature (39th Legislature).
- Legislation contained:
 1. workers compensation reform,
 2. strengthening the Accident Board, and
 3. creating NMMCC.
- Legislation was Chapter two of Senate Bill One, as amended.
- The mutual company section is Section 122.

4. Reasons for Change

- The ARP was nearly the only source of business.
- Private carriers had withdrawn from the marketplace; and only 3 were writing.
- The ARP burden was 28 cents on the dollar.

5. Employees

- Employees were hired as private employees; both compensation and retirement plans are in the private sector.
- NMMCC was a new entity and there was no rollover plan from a previous entity.

6. Surplus

- NMMCC issued \$10 million in revenue bonds.
- The State Investment Council purchased the bonds.

7. Environment and Experience

- NMMCC insures about 25% of the market.
- Carriers have returned to the market; there are now 88 carriers writing workers compensation.
- The rating law is the same for all and rates are deemed approved 90 days after filing. NCCI advisory loss costs are used and represent all insurers in the state.

Oregon - SAIF Corporation

1. Structure

- SAIF is a public corporation created by the Legislature in 1979.
- SAIF operates like a mutual insurer.
- Characteristics which tie it to the State are:
 - The Board is appointed by the Governor and approved by the Senate.
 - Records and meetings are open to the public.
 - It is audited by the Secretary of State and by the Insurance Commissioner.
 - Corporate legal staff is the Attorney General's office.
- Independent Characteristics are:
 - SAIF does not have the full faith and credit of the State.
 - It is exempt from State purchasing requirements.
 - SAIF has its own legal staff in claims area.
 - Employees are not in civil service.
- SAIF is not in the Guaranty Fund.
- Policies are non assessable.

2. Residual Market

- There is and has been a separate assigned risk plan in Oregon.
- The assigned risk plan writes about 8.6% of the market and makes assessments of other carriers.
- SAIF is not the market of last resort.

3. History and Changes

- SAIF is the successor to the State Accident Fund of Oregon.
- Applicable statues are ORS 656.751-656.760.
- Until 1967 the Fund was the sole carrier in Oregon.

4. Reasons for Change

- The Fund had to be responsive to the marketplace, make purchases, and to grow.

5. Employees

- Employees were in the civil service system when the Fund was a state agency.
- While SAIF employees are public employees, they are not in civil service and they have their own compensation system, bonuses, and health benefits.

- However, they are still part of the State retirement system.
- Incentive programs are now in place for employees.

6. Transition & Cost

- Employees got a new compensation system, incentive programs for bonuses, and kept the state retirement system.

7. Surplus

- Surplus was transferred to SAIF.
- In 1981 the State took an \$81 million appropriation from surplus. After a class action suit by policyholders, the Supreme Court said in 1993 the taking violated contractual law and that the money was to be returned to policyholders plus interest.
- In 1983 statute 656.634 came in dealing with the right of the state to take excess surplus.

8. Environment & Experience

- Competition in the state is among private insurers, SAIF, and self-insurers.
- SAIF market share is 37%.
- Rate regulation is open rating on NCCI loss costs.

Rhode Island - Beacon Mutual Insurance Company (Beacon)

1. Structure

- Beacon is a non-profit public corporation that began operations in July 1991 as the State Compensation Insurance Fund.
- The Fund name was changed to Beacon Mutual, as it is a Mutual insurer.
- Beacon is not a state agency.
- Enabling legislation was Title 27 of Chapter 2 of the Workers Compensation Law enacted in 1990.
- Beacon is organized and operated as a domestic mutual insurance company for writing workers compensation, Federal Longshoreman and Harbor Workers, and employers liability insurance.
- It began writing business in 1992 after getting authorization.
- Beacon competes for business in the voluntary market.
- Beacon is not a member of the Guaranty Fund; and writes non assessable policies.

2. Residual Market

- Beacon has served as the residual market insurer in Rhode Island since January 1, 1993.
- The residual market was previously served by an assigned risk pool.

3. History and Changes

- In 1990, Title 27 of Chapter 2 of the Workers Compensation Act created the new State Compensation Insurance Fund.
- In 1992, a comprehensive Workers Compensation Reform package was passed by the legislature.

4. Reasons for Change

- Over half of the major private writers of workers compensation insurance had withdrawn from the state.
- There was a lack of available coverage.
- The assigned risk pool (ARP) was insuring over 80% of the Rhode Island market.
- Underwriting losses in the ARP were large.

5. Employees

- Employees of the Beacon are employed in the private sector and have private compensation plans and benefits.

- Beacon is a new entity and there was no rollover of employees from a previous entity.

6. Surplus

- Beacon received a \$5 million appropriation loan from the Dr. John E. Donley Rehabilitation Center in October 1991, which provided initial surplus supporting the voluntary business Beacon is required to write by statute.
- Beacon's role was expanded effective 1/1/93 to provide residual market coverage. Through 1994, surplus was provided by a 3% capital assessment on premium of all insured employers in Rhode Island. Effective 1/1/95, the assessment was eliminated.
- Future assessments can be made if the Director of the Department of Business Regulation deems it is necessary.

7. Environment

- In 1995, Beacon wrote 78% of the market; that share is expected to decline to about 60% in 1996.
- There are an estimated 20 to 30 private workers compensation carriers in Rhode Island.
- Rhode Island has an open rating law.

Texas Workers Compensation Insurance Fund (TWCIF)

1. Structure

- TWCIF is a self supporting competitive state fund.
- TWCIF is a governmental corporation created by the legislature.
- It is not a state agency.
- It is exempt from state civil service, budgets, appropriations, and does its own investing; it uses no state money.
- Its nine member Board of Directors is appointed by the Governor.
- It does not have the full faith and credit of the State.
- It is not a member of the guaranty fund.
- It writes non-assessable policies.
- It is subject to insurance commissioner regulations.
- TWCIF is subject to premium taxes and other maintenance taxes, but has a 2% tax credit on these taxes.

2. Residual Market

- The Texas Workers Compensation Insurance Facility (Facility) served as the residual market until 12/31/93.
- TWCIF became the residual market in Texas on 1/1/94.
- TWCIF competes for workers compensation business as well.

3. History and Changes

- In 1989 significant workers compensation reforms were passed in Texas.
- In August of 1991, TWCIF was created by the legislature: House Bill 62; became Insurance Code Article 5.76 +.
- TWCIF, and other insurers, began taking good business from the Facility in 1993.
- TWCIF began insuring the residual market on 1/1/94.
- The Facility was phased out by 1/1/94.

4. Reasons for Change

- In the late 1980's and early 1990's private carriers had left the state or had constricted writings in Texas.
- The assigned risk pool (Facility) was 30% of the market and turning out large losses.
- Industry experience was very unprofitable.
- In 1991 there was still an availability and affordability problem after the reform act of 1989.

- TWCIF was created to bring competition to the market.
 - Private carriers got an open rating law, but TWCIF was set up to bring rating stability.
5. Employees
- TWCIF received an exemption from civil service, and TWCIF employees are privately employed.
 - TWCIF, as a new entity, hired new people, and there was no rollover or transition from an existing entity.
6. Surplus
- On 12/1/91 the Texas Public Finance Authority issued fund maintenance tax surcharge revenue bonds in the principal amount of \$300 million to initially capitalize TWCIF.
 - TWCIF has bought back some of these bonds.
7. Environment
- Competitiveness has returned to the market.
 - In 1992, Texas adopted a file and use rating law.
 - Workers compensation insurance is not mandatory in Texas.
 - Deductibles and self insurance are now allowed in Texas.
 - Because of the above items and reforms, workers compensation premium in Texas have dropped from over \$4 billion in 1990 to under \$2 billion in 1995.
8. TWCIF Experience
- TWCIF wrote over \$500 million of premium in 1995.
 - TWCIF's estimated market share in 1996 is 24%.
 - Premiums have declined and market share has declined from 28% in 1994.