WHEREAS, the State Compensation Insurance Fund (or "State Fund") is a self-supporting, non-profit enterprise that provides workers' compensation insurance to California employers at cost; and

WHEREAS, the Governor of California (or "Governor") issued Executive Order S-16-08 on December 19, 2008, and Executive Order S-13-09 on July 1, 2009, which have in total ordered the Department of Personnel Administration (or "DPA") to implement a furlough of state employees for three days per month; and

WHEREAS, the DPA has adopted a furlough plan that applies the furlough orders to the employees of the State Fund, and the DPA has refused to allow an exemption from the furlough plans for the employees of the State Fund resulting in a reduction of pay of approximately fifteen percent for State Fund employees; and

WHEREAS, State Fund is solely responsible for funding the payroll for State Fund employees from the funds generated by the State Fund's business activities and the State of California does not have any obligation to pay State Fund employees, and Insurance Code section 11873 subsection (c) specifically provides that State Fund employees are exempt from hiring freezes and staff cutbacks otherwise required by law; and

WHEREAS, in response to a Petition for a Writ of Mandate filed by the California Attorneys, Administrative Law Judges and Hearing Officers In State Employment (or "CASE") against the Governor, DPA, Controller and Janet Frank as President of the State Fund, the Superior Court issued an Order on or about June 4, 2009 exempting the State Fund attorneys represented by CASE from the furlough, but did not extend the Order to any other State Fund employees; and

WHEREAS, the Service Employees International Union (or "SEIU") and the California Association of Professional Scientists (or "CAPS") have each subsequently filed a Petition for a Writ of Mandate in Superior Court in San Francisco, against the same parties on the same legal theories seeking exemption from the furloughs for their respective members, while the Association of California State Supervisors (or "ACSS") submitted a letter dated July 16, 2009 to Janet Frank and members of the Board of Directors demanding that all State Fund employees, including members of ACSS, be exempted from the Governor's furlough orders; and

WHEREAS, there are approximately twelve hundred additional State Fund employees who are not represented by CASE, SEIU, CAPS or ACSS, and who would therefore not be exempted from the furlough by an Order issued by the court in response to the various Petitions;

WHEREAS, the State Controller's Office issues State Fund's payroll checks and has refused to process payroll checks without deducting the pay for furloughed days unless it receives an appropriate order from either the DPA or from the court as it has received for the CASE members; and

WHEREAS, the furlough plan has resulted in a disruption to the business activities of the State Fund, potentially subjecting State Fund to penalties for delayed claims payments; and

WHEREAS, the Board of Directors has determined it is in the best interest of the State Fund business and State Fund's employees, policyholders and the injured workers it serves, to expedite the clarification and full resolution that section 11873 subsection (c) of the Insurance Code exempts all State Fund employees from staff cutbacks including furloughs.

NOW THEREFORE,

It is RESOLVED, that the Board of Directors authorizes the President and Chief Executive Officer of the State Fund to take actions she determines appropriate, including but not limited to the filing of a cross-complaint in any of the current pending court proceedings, to obtain a ruling from the court that all employees of the State Fund are exempted from the Governor's furlough orders, including those employees who are not represented by CASE, SEIU or CAPS.