

1994

Legislative Summary 1994 Session

Assembly Committee on Insurance

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ASSEMBLY COMMITTEE ON INSURANCE

**LEGISLATIVE SUMMARY
1994 SESSION**



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ASSEMBLY COMMITTEE ON INSURANCE

LEGISLATIVE SUMMARY 1994 SESSION

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AUTOMOBILE INSURANCE

AB 2602 (Johnson) Liability Insurance: leased vehicles.

Codifies a definition for leased motor vehicles, for the purposes of automobile and motor vehicle liability insurance, as a motor vehicle leased or rented by a lessor licensed to lease motor vehicles under a written contract for a period of six months or longer.

Status: Chapter 359, Statutes of 1994

AB 2772 (Martinez) Automobile Liability Insurance.

Required the written authorization of a policyholder in order for an insurer to add a minor child of the policyholder to an automobile insurance policy.

Status: Failed Passage in Assembly Insurance Committee

AB 2890 (Statham) Motor Vehicle Insurance.

Provides that each insurer must pay their share of the defense costs applicable to a claim where two or more personal liability insurance policies apply to the same motor vehicle. Establishes that the share of the defense costs is equivalent to the insurer's percentage of the total damages paid on the claim.

Status: Chapter 1252, Statutes of 1994

AB 3060 (Johnson) Motor Vehicle Insurance.

Restricted the Insurance Commissioner's authority to limit the period for an insurer's determination as to whether there has been a substantial increase in the hazard insured against to a period less than the statutory 36 months applicable to a good driver discount.

Status: Failed Passage in Assembly Insurance Committee

AB 3445 (Margolin) Insurance: rates. (URGENCY)

Repealed the following statutes which were enacted after Proposition 103 was approved by the voters: (1) Permits insurers to receive full credit against their rollback rate obligations for all agents' commissions, brokerage expenses and premium taxes; (2) Requires a rate change application to be deemed approved 180-days after the rate application is received

by the Commissioner, unless one of the specified conditions is satisfied; and, (3) Exempts credits and surety insurance from rate rollbacks and prior approval requirements specified in statute.

Status: Failed Passage in Assembly Insurance Committee

SB 1075 (Torres) Automobile Insurance: claims processing.

Required insurers to follow specified claim practices for claims arising under an automobile insurance policy in order to ensure that claims are processed in a timely and fair manner. These include (1) having as its basic goal prompt and fair payment to automobile accident victims; (2) assist in the processing of claims, and not treat applicants as adversaries; (3) hasten the processing of a claim through the use of a telephone; (4) clearly inform the applicant of the insurers' position regarding disputed matters; and (5) respond promptly, when a response is indicated, to all communications from insureds, applicants, attorneys, and other parties.

Status: Died in Assembly Insurance Committee

SB 1592 (Killea) Automobile Insurance: rates.

Permits automobile liability insurance and automobile physical damage insurance to be considered a single line for rate filing purposes.

Status: Chapter 1113, Statutes of 1994

SB 1721 (Johnston) Uninsured Motorist Coverage.

Provides that insurance coverage under the assigned risk plan will not be effective prior to the date and time of execution of the application forms. Establishes an electronic processing procedure and provides for applicable guidelines.

Status: Chapter 1092, Statutes of 1994

SB 1743 (Lockyer) Automobile Insurance: insurers fee.

Provides for a change in the allocation of fees paid by auto insurers to the Automobile Insurance Claims Depository for enhanced investigation, prosecution, and prevention of economic auto theft by the California Highway Patrol.

Status: Chapter 1248, Statutes of 1994

SB 1757 (Johnston) Automobile Insurance: inspection requirements.

Makes several changes in the California vehicle inspection law. Provides that no more than 3 photographs are required for each automobile inspected. Reduces from 3 years to 1 year the time in which an insured must maintain continuous coverage for purposes of obtaining a waiver from inspection requirements for a replacement or additional vehicle. Allows an inspector to provide a photocopy or close-up photograph of the current vehicle registration, showing the vehicle ID number (VIN), along with a certification on the inspection report that the VIN on the vehicle registration and the VIN on the safety certification label are the same, in lieu of a legible photo of the VIN, where the Safety Certification label is missing or where the photo of the VIN is illegible. Requires that the insurance carrier is to reimburse agents or brokers for the cost of filming and developing.

Status: Chapter 130, Statutes of 1994

SB 1948 (Killea) Automobile Insurance: assigned risks.

Required the Department of Insurance to provide legal counsel to members of the California Automobile Assigned Risk Advisory Committee. Required that these services be provided for with existing departmental resources. Provided that the subscribing insurers are not to be required to provide legal, actuarial, or other professional services to individual members or groups of members on the Committee. Restated the right of individuals to intervene in rate charge proceedings which were established by Proposition 103.

Status: Vetoed

SB 2065 (Killea) Automobile Insurance: 1994 conditions for
notice of cancellation.

Allows insurers to cancel insureds who misrepresent any of the following factors in car insurance rating forms mandated by Proposition 103: safety record, annual miles driven, and number of years of driving experience. Permits cancellation for failure to disclose any household driver's record of prior auto insurance claims.

Status: Chapter 992, Statutes of 1994

DISASTER INSURANCE

AB 1388 (McDonald) Earthquake insurance.

Would have allowed insurers to satisfy the mandate to offer earthquake coverage by offering a policy written through the California FAIR Plan. The FAIR Plan would have been required to issue a standard earthquake policy, and private insurance policies would have been permitted to be rewritten to conform to the minimum FAIR Plan policy. The FAIR Plan policy would have been required to have actuarially sound insurance rates, to be set by the FAIR Plan Board, and reviewed by the Insurance Commissioner on an expedited basis. If premium and reinsurance were inadequate to pay losses resulting from earthquake damage, homeowners insurers would have been assessed according to the percentage of premium each insurer caused to be written within the FAIR Plan, without surcharging policyholders. Insurers would have been required to maintain their existing homeowner's and earthquake policies, subject to some exceptions, and insurers would have been subject to fines and assessments for unlawfully canceling or refusing to renew earthquake policies.

Status: Died in Senate Insurance Committee.

AB 2613 (Areias) Residential Property: earthquake insurance.

Established the California Homeowners' Earthquake Recovery Act to be administered by the Department of Housing and Community Development to provide coverage for damage to residential property caused by earthquakes. Provided for collection of fees and the sale of revenue bonds to fund the program.

Status: Failed Passage in Assembly Insurance Committee

AB 3568 (Margolin) Earthquake Insurance.

Requires the disclosure of specified loss assessment coverage information in every homeowner's insurance policy or policy endorsement covering an individually owned condominium.

Status: Chapter 658, Statutes of 1994

AB 3569 (Margolin) Insurance: disasters.

Allowed the Insurance Commissioner, when a state of emergency had been declared, to call a public hearing to determine whether certain property insurance has been made substantially less available or more costly by the events caused by the declared emergency. Authorized the Governor to make an order prohibiting the cancellation or nonrenewal of policies except for

non-payment of premiums or fraud, as specified. Required any rate change requested by an insurer as a result of a disaster or emergency to be in accordance with existing law.

Status: Vetoed

SB 212 (Russell) Earthquake Insurance.

Required, for new policies of residential property insurance issued on or after January 1, 1995, that earthquake coverage be issued through the California Earthquake Underwriting Pool to be created within the Department of Insurance.

Status: Died in Assembly Insurance Committee

SB 1355 (Torres) Homeowners' Insurance.

Established the Homeowners' Bill of Rights to provide specified protections for policyholders with homeowner's insurance. Applied only to policies of residential property insurance. Required an insurer to serve a defined disclosure of rights upon the policyholder prior to holding an examination under oath.

Status: Vetoed

SB 1381 (Torres) Property Insurance.

Requires the California Fair Access Insurance Requirement (FAIR) Plan to provide an assessment credit to insurance companies that write basic property insurance or business owner's package insurance within inner city areas. Requires the Insurance Commissioner to develop a pamphlet which provides information to small business owners and others on the key features of, and suggested ways of, purchasing commercial property insurance. Requires the pamphlet to be completed by July 1, 1995.

Status: Chapter 316, Statutes of 1994

SB 1587 (Roberti) Earthquake Insurance. (URGENCY)

Prohibited earthquake insurance policies that provide for an uninsured deductible amount from applying that deductible more than one time for each earthquake. Established a presumption that any aftershock occurring within 30 days was the same earthquake.

Status: Died in Assembly Insurance Committee

SB 1840 (Torres)

Insurance: disasters.

Authorized the Insurance Commissioner, upon declaration of a state of emergency by the Governor or by the President, to issue an order affecting all property insurance which would prohibit an insurer from canceling existing property insurance policies and refusing to renew existing policies. Specified that such orders would apply only to property insurance policies in the area affected by the state of emergency, and would be in effect for no more than one year.

Status: Died in Assembly Insurance Committee

SJR 37 (Torres)

Natural Disasters.

Memorializes Congress and the President of the United States to enact the Natural Disaster Protection Act, which establishes a federal program of hazard insurance and mitigation against the risks of catastrophic disasters such as earthquakes, hurricanes, windstorms, volcanic eruptions, and flooding.

Status: Chapter 69, Statutes of 1994

GENERAL INSURANCE

AB 1674 (Margolin) Insurance: notices.

Extends the sunset date on the statute that authorizes the Insurance Commissioner to create market assistance programs (MAP) and joint underwriting associations (JUA's) to January 1, 1996.

Status: Chapter 951, Statutes of 1994

AB 1926 (Peace) Insurance: fraud.

Extends the statute which prohibits the knowing employment of runners, cappers, steerers or other persons for the purposes of engaging in workers' compensation related insurance fraud to fraudulent claims against specified insurers. Specifies the applicable penalties and fines. Makes other relevant changes applicable to insurance fraud.

Status: Chapter 1247, Statutes of 1994

AB 2336 (Katz) Insurance: arson.

Creates the Arson Information Reporting System to permit insurers, law enforcement agencies, fire investigative agencies and district attorneys to deposit arson case information in a common database within the Department of Justice. Appropriates \$3 million from the Insurance Fund.

Status: Chapter 420, Statutes of 1994

AB 3259 (Bornstein) Insurance: excess funds investments.

Permits insurers to make investments of their excess funds in investment and cash management pools, subject to specified conditions.

Status: Chapter 522, Statutes of 1994

AB 3823 (Ins. Committee) Insurance: disclosure of 1994 material transactions.

Requires domestic incorporated insurers to file a report with the Insurance Commissioner disclosing material acquisitions and dispositions of assets or material non-renewals, cancellations, or revisions of ceded reinsurance agreements. Revises the provisions of law regulating insurers' financial guaranty transactions.

Status: Chapter 662, Statutes of 1994

SB 773 (Hart) Family Day Care Home Insurance.

Extended the sunset statute that authorizes the Insurance Commissioner to create marketing assistance programs (MAP) until at least January 1, 1996, at which time the Commissioner was required to evaluate whether the MAP created to assure the availability of coverage for child day-care centers, had adequately served that purpose. Required every insurance company that issues commercial and homeowner's insurance in this state to also offer to write child care liability insurance to existing and new policyholders if the Insurance Commissioner determined that as of January 1, 1996 the MAP did not meet those requirements.

Status: Vetoed

SB 959 (Johnston) Insurance: surplus lines.

Requires that before a surplus line broker places any coverage with a nonadmitted insurer, the insurer must receive approval by the Department of Insurance. Requires nonadmitted insurers not domiciled in the U.S. to maintain a minimum trust account in a U.S. financial institution. Requires the Commissioner to establish a list of approved surplus line insurers. Specifies that insurers appearing on the most recent list are presumed to be an eligible surplus line insurer from the list of approved insurers. Repeals the sunset on the authority of the surplus line advisory organization to monitor and regulate the transfer of risk through surplus line brokers to nonadmitted insurers.

Status: Chapter 980, Statutes of 1994

SB 1146 (Johnston) Insurance Discrimination: genetic characteristics.

Prohibits health insurance plans from discrimination based upon a person's asymptomatic genetic characteristics. Prohibits life insurers from refusing to issue a policy to a person on the basis of asymptomatic genetic characteristics, but permits the use of genetic information for risk classification in underwriting individual life and disability income insurance. Subjects the use of genetic testing information by life and disability income insurers to strict confidentiality requirements.

Status: Chapter 761, Statutes of 1994

SB 1340 (Rosenthal) Insurance.

Allows charitable corporations which are exempt from the bank and corporations tax to be the beneficiary of a life or disability insurance policy if the insured consents.

Status: Chapter 177, Statutes of 1994.

SB 1345 (Russell) California Life and Health Insurance Guaranty.
(URGENCY)

Provides coverage under a current California Life and Health Insurance Guaranty Association policy for an unallocated annuity contract sold to a trustee or other plan fiduciary in connection with a plan or program of an employer, as specified. Expands the definition of a buyer to include employer, trustee or plan fiduciary.

Status: Chapter 302, Statutes of 1994

SB 1375 (Rogers) Insurance: investments.

Allows insurers to make discretionary investments in shares of an open-ended diversified management investment company as specified.

Status: Chapter 303, Statutes of 1994.

SB 1395 (Leslie) Insurance: fees.

Requires the Department of Insurance to adopt an accounting system that will allow the Department to accurately identify costs associated with regulatory activities and to link all costs to fees collected for these regulatory activities.

Status: Chapter 965, Statutes of 1994

SB 1505 (Calderon) Life Insurance: senior citizen policies.

Adds the cancellation rights and mandatory notices for senior citizens who purchase an individual annuity contract, but exempts variable contracts and modified guaranteed contracts from the provision which declares that return of the policy during the cancellation period has the effect of voiding the policy from the beginning. States that in the case of variable annuity contracts, variable life insurance contracts, and modified guaranteed contracts, return of the contract during the cancellation period entitles the owner to a refund of the account value and any policy fee paid for the policy. Requires

insurers and agents that collect more than one month's premium from a senior citizen at the time of application for, or delivery of, a group term life insurance policy or certificate to provide the senior citizen with a prorated refund of the premium, if the senior citizen delivers a cancellation request to the insurer during the first 30 days of the policy period.

Status: Chapter 984, Statutes of 1994

SB 1801 (Bergeson) Insurers: investments.

Expands the definition of a qualified depository to include an entity located outside the United States.

Status: Chapter 306, Statutes of 1994

SB 1833 (Torres) Insurance Fraud.

Imposes mandatory civil penalties for specified acts of insurance fraud, and specifies additional acts which will be criminal violations. Provides that no persons will be subject to both civil and criminal penalties for the same transaction. Prescribes a distribution priority for monies received from the civil penalties.

Status: Chapter 1008, Statutes of 1994

SB 1866 (Campbell) Title Insurance: fraud.

Exempts title insurance companies from the requirement to maintain a fraud investigation unit.

Status: Chapter 131, Statutes of 1994

SJR 36 (Russell) Interstate Insurance Compacts

Memorializes the United States Congress to adopt appropriate resolutions encouraging the states to adopt interstate compacts for the regulation of interstate insurance, and to consent to the adoption of those compacts.

Status: Resolution, Chapter 45

INSURANCE REGULATION

AB 2582 (Johnson) Insurance: surplus line advisory organization.

Raises the fine for surplus line advisory organization or any officer, committee member, agent or employee failing to comply with a final order of the Insurance Commissioner from \$100 to \$200.

Status: Died in Senate Insurance, Claims and Corporations

AB 2601 (Johnson) Insurance Commissioner: 1994 investigation of complaints.

Requires the Insurance Commissioner to promulgate a regulation setting forth the criteria that the Department of Insurance (DOI) would apply to determine if a complaint against a specifically named insurer is deemed to be justified prior to the public release of the complaint in DOI's annual consumer complaint study. Requires the Commissioner to provide to an insurer a description containing specified information of any complaint against that insurer that has been received and is deemed to be justified at least 30 days prior to public release of such complaints.

Status: Chapter 892, Statutes of 1994

AB 2904 (Quackenbush) Insurance: rate information disclosure.

Required the Department of Insurance to establish an ombudsman's office in order to receive, mediate and respond to complaints lodged against the Department, its policies or its personnel.

Status: Died in Assembly Insurance Committee

AB 3058 (Hoge) Insurance: surplus line brokers: reports.

Revises the prescribed contents of the annual statement which surplus line insurance brokers are required to file with the Insurance Commissioner. Requires specified surplus lines brokers to make monthly, rather than quarterly, installment payments on premium taxes due to the Commissioner.

Status: Chapter 455, Statutes of 1994

AB 3267 (Umberg) Insurance Fraud Investigators

Merged the Department of Insurance's Bureau of Fraudulent Claims and the Department's Investigation Bureau on and after January

1, 1995 to create the Fraud Investigation Bureau within the Department.

Status: Died in Assembly Insurance Committee

AB 3319 (Takasugi) Insurance: reports.

Deletes the requirement that an insurer report annually specified information on policies issued to the Insurance Commissioner. Reduces the amount of time the Department of Insurance must retain this information from 5 years to 3 years. Exempts from the reporting requirements insurers demonstrating to the Insurance Commissioner that their market share of the coverage for which the Commissioner seeks information is less than 1%.

Status: Chapter 482, Statutes of 1994

AB 3586 (O'Connell) Insurance Commissioner: 1994 investigation of complaints.

Requires that the information used in the Consumer Complaint Study pertaining to private passenger automobile insurance ratios be calculated by the ratio of complaints received to the total number of car years earned in the period studied.

Status: Chapter 893, Statutes of 1994

AB 3709 (Mountjoy) Insurance: annual report.

Eliminates the requirement for product liability insurers to annually report specified information on their products liability insurance writings nationwide to the Department of Insurance.

Status: Chapter 530, Statutes of 1994

AB 3710 (Margolin) Insurance: annual report.

Required the Insurance Commissioner to establish a telephone service to provide consumers with rate comparisons for automobile and homeowners insurance. Specified the information that would be available to consumers and other applicable guidelines. Created a non-profit corporation which would advocate for the interests of insurance consumers and set forth necessary procedures.

Status: Died in Assembly Insurance Committee.

SB 1388 (Russell) Certificate of Authority: government-owned insurers.

Repeals the statutory prohibition against the issuance of a certificate of authority to any insurer which is owned, operated or controlled, directly or indirectly by any other state, province, or nation. Makes such insurers eligible for a certificate of authority, unless the Commissioner makes specific findings which indicate that specific policies of the State of California pertaining to unfair competition, civil rights, or confidentiality of information would be violated.

Status: Chapter 334, Statutes of 1994

SB 1452 (Kopp) Attorney General: legal services.

Eliminated the authority of the Insurance Commissioner to employ counsel in delinquency proceedings without the written consent of the Attorney General. Required the Attorney General, upon the request of the Commissioner, to petition the court for a determination in the event the Commissioner and the Attorney General disagreed upon the need to employ outside counsel.

Status: Died in Assembly Insurance Committee

SB 1686 (Lewis) Insurers: securities.

Allows domestic and admitted insurers to participate in specified securities transactions, without having obtained prior approval from the Insurance Commissioner, by obtaining a permit.

Status: Chapter 595, Statutes of 1994.

SB 1778 (Torres) Insurance: Office of the Public Advisor.

Established an Office of the Public Advisor in the Department of Insurance to ensure full public participation in Department proceedings.

Status: Vetoed.

SB 1980 (Kopp) Insurance: liquidation.

Requires the Insurance Commissioner to notify the Chair of the Joint Legislative Budget Committee, by letter, of his or her appointments of special deputy commissioners, clerks and assistants in insurance conservatorship and liquidation proceedings to handle the management of failed or failing insurance companies.

Prohibits paying the costs of employing such individuals out of

the assets of another insolvent insurer's estate.

Status: Chapter 829, Statutes of 1994

UNEMPLOYMENT INSURANCE

AB 2664 (Burton) Unemployment Insurance: income tax withholding. (URGENCY)

Requires the Employment Development Department to establish, operate and publicize a 3-month employment tax amnesty program beginning April 1, 1995. Applies to any employment taxes, personal income taxes and associated penalties that were unpaid on the date an application for amnesty is made, if specified requirements are satisfied.

Status: Chapter 999, Statutes of 1994

AB 2867 (McDonald) Unemployment Compensation: weekly benefit amount.

Increased the maximum weekly unemployment benefit amount for unemployment insurance from \$230 to \$245 effective January 1, 1995.

Status: Vetoed

AB 3086 (Frazee) Unemployment Insurance: reporting.

Reduces the number of payroll tax returns that must be filed with Employment Development Department from four quarterly returns to one annual return. Specifies that actual payments will still be required quarterly. Makes other changes to simplify an employers' requirement to remit deposits for state personal income tax and state disability withholdings.

Status: Chapter 1049, Statutes of 1994

AB 3109 (Margolin) Unemployment Insurance: interest awards.

Required that claimants be awarded interest if an administrative law judge or the California Unemployment Appeals Board finds that the Employment Development Department "wrongfully withheld" unemployment benefits.

Status: Died in Senate Committee on Appropriations

AB 3122 (Klehs) Unemployment Insurance.

Requires any employer that induces, solicits or coerces an employee to file a false or fraudulent claim for unemployment benefits to be 100% liable for the overpayment and penalty. Allows the Employment Development Department to waive any liability to the employee for overpayment if the claimant

cooperates in the investigation or prosecution of an employer who encourages the filing of a false or fraudulent claim. Creates a new penalty assessment for such conduct.

Status: Chapter 1050, Statutes of 1994

AB 3320 (Takasugi) Unemployment Insurance: benefit assignment.

Allows an employee covered by a disability insurance voluntary plan under certain conditions to redirect a portion of his or her voluntary plan benefits to cover the costs of employee paid benefits.

Status: Chapter 960, Statutes of 1994

AB 3402 (Brulte) Independent Contractors: legal presumptions.

Established a conclusive presumption that a person is an "independent contractor" and not an "employee" for all purposes under state law if supported by the preponderance of the evidence as evaluated against specified 20 point criteria. Indicated that if an employer erroneously reaches a good faith conclusion based on the 20 point list that a worker is an independent contractor and the worker agreed in writing, the employer would be retroactively exempt from any taxes and penalties, (i.e., unemployment insurance, employment training tax, state disability insurance and state personal income tax).

Status: Failed in the Assembly Insurance Committee: Subject matter referred to Interim Study.

SB 1419 (Johnston) Unemployment Insurance: extended benefits.

Would have allowed Federal-State Extended Benefits to be triggered during periods of high unemployment, when the season-adjusted Total Unemployment Rate (TUR) reached specified levels. Would have authorized California to opt for the TUR standard, rather than the much more rigid Insured Unemployment Rate (IUR). Extended Benefits would have been up to 13 weeks, when a worker's original 26 weeks expired.

Status: Vetoed.

SB 1482 (Watson) Unemployment: self-employment.

Creates the Self-Employment Assistance Program to be administered by the Employment Development Department. The Program allows specified unemployment insurance recipients to receive self-employment assistance benefits and business support

services.

Status: Chapter 1116, Statutes of 1994

SB 1584 (Johnston) Unemployment Compensation.

Makes various changes to the Unemployment Insurance and State Disability Insurance programs to provide additional tools to the Employment Development Department for fraud deterrence and detection.

Status: Chapter 967, Statutes of 1994

SB 1830 (Campbell) Unemployment Insurance.

Allows individuals who are considered statutory employees by the Internal Revenue Service, but considered employees or self-employed under state law, to be eligible to enroll in the disability insurance elective coverage program.

Status: Chapter 125, Statutes of 1994

SB 2031 (Roberti) Disability Benefits: maximum payments.

Increased the maximum weekly state disability insurance benefits amount from \$300 to \$406 effective January 1, 1995.

Status: Vetoed

WORKERS' COMPENSATION INSURANCE

AB 352 (Tucker) Workers' Compensation.

Authorizes local agencies to offer a disability retirement benefit equal to 75% of salary for one year for probation officers, group counselors, or supervisors who are disabled by a violent act arising out of and in the course of employment.

Status: Vetoed

AB 1811 (McDonald) Workers' Compensation Liens: arbitration.

Amends existing law pertaining to arbitration of workers' compensation lien disputes involving a question of permanent disability of 20% or less. Requires that the matter be arbitrated when the workers' compensation referee determines that the case will not be set for hearing within 150 calendar days from the date of the filing of the declaration of readiness.

Status: Chapter 470, Statutes of 1994

AB 2420 (Mountjoy) Workers' Compensation: cumulative injury.

Required employees who claim a cumulative work related injury to demonstrate by a preponderance of the evidence that actual events of employment were predominant as to all causes combined of the cumulative injury.

Status: Died in Assembly Insurance Committee

AB 2421 (Mountjoy) Workers' Compensation: apportionment of disability.

Specified that apportionment is appropriate in the case of aggravation of any disease existing prior to a compensable injury and sets forth guidelines in regards to the availability or apportionment in these instances which would be based on medical pathology rather than disability.

Status: Died in Assembly Insurance Committee

AB 2422 (Mountjoy) Workers' Compensation.

Repealed the requirement that courts liberally construe workers' compensation provisions.

Status: Died in Assembly Insurance Committee

AB 2423 (Mountjoy) Workers' Compensation: post-termination benefits. (URGENCY)

Eliminated conditions that permitted an employee to recover posttermination benefits under workers' compensation for psychiatric and non-psychiatric injuries upon a showing that the date of the injury is subsequent to the date of the notice of termination or layoff, but prior to the effective date of the termination or layoff.

Status: Died in Assembly Insurance Committee

AB 2424 (Mountjoy) Workers' Compensation: referees.

Changed the title of workers' compensation referees to workers' compensation judges. Gave the Commission on Judicial Performance exclusive authority to investigate and discipline the conduct of workers' compensation referees, consistent with the Code of Judicial Conduct. Required presiding workers' compensation referees to make available statistical information on referees to interested parties. Required the Commission on Judicial Performance to refer the findings of its investigation to the administrative director of the Division of Workers' Compensation for appropriate disciplinary action.

Status: Died in Assembly Insurance Committee

AB 2695 (Polanco) Workers' Compensation: notice of nonrenewal.

Requires insurers to provide employers with at least a 30 day, but no more than 120 day, advance notice of nonrenewal of workers' compensation insurance.

Status: Chapter 398, Statutes of 1994

AB 2736 (Brulte) Workers' Compensation.

Permits medical groups to apply to become managed care organizations. Changes references in statute to "medical groups" to reflect the more accurate term of "workers' compensation health care provider organizations" consistent with the 1993 workers' compensation reform legislation.

Status: Chapter 285, Statutes of 1994

AB 2995 (Johnson) Workers' Compensation: required state compensation.

Required the State Compensation Insurance Fund to also provide the Insurance Commissioner with the annual bond which is required of all insurers who transact workers' compensation business in California to assure payment of awards. Changed the formula for computing an insurers' annual bond to the aggregate for each of the preceding three years of 100% of the advisory pure premium rate adopted by the rating organization.

Status: Died in Assembly Insurance Committee

AB 3040 (Bornstein) Workers' Compensation.

Required the Employment Development Department to include in their annual newsletter to employers information about programs to reduce the incidence of work-related psychiatric injuries. Required the ombudsmen of the workers' compensation rating organizations to respond to requests from employers for information about these programs.

Status: Vetoed

AB 3075 (Costa) Workers' Compensation.

Permits insurers to offer deductible provisions in workers' compensation insurance policies, and specifies the conditions under which deductible provisions may be offered.

Status: Chapter 1131, Statutes of 1994

AB 3077 (Escutia) Workers' Compensation: disability benefits.

Makes injured workers eligible for orthotic and prosthetic devices and services, rather than for "artificial members" to cure or relieve the effects of the injury.

Status: Chapter 477, Statutes of 1994

AB 3231 (Bates) Workers' Compensation: death benefits.

Limited the circumstances in which an employer is required to pay a deceased worker's accrued and unpaid workers' compensation to the Director of Industrial Relations. Would require payment to DIR only where the employee leaves no surviving dependent, personal representative, heir, or other person entitled to such benefits. Specified that such provision is only applicable to peace officers or firefighters.

Status: Died in Assembly Insurance Committee

AB 3277 (Baca) Workers' Compensation: state compensation insurance fund.

Repeals a provision prohibiting public agencies from obtaining workers' compensation insurance from an insurer other than the State Compensation Insurance Fund.

Status: Chapter 373, Statutes of 1994

AB 3531 (Martinez) Employees.

Defined transit authority officials as peace officers. Extended the workers' compensation benefits equivalent to the injured employees salary to peace officers employed by special districts. Increased caps on damages awarded to workers who suffer discrimination as a result of filing a workers' compensation claim.

Status: Failed Passage in Senate Committee on Industrial Relations

AB 3625 (Campbell) Insurance: sales by licensees. (URGENCY)

Allows a life agent or fire and casualty licensee to transact 24-hour-care workers' compensation coverage. Imposes education and examination requirements for the transaction of that coverage. Increases the life insurance agent's annual fee to \$56. Requires the Department of Insurance to establish a task force to make recommendations to the Legislature by July 1, 1995 on the creation of a single license for insurance agents and brokers.

Status: Chapter 1069, Statutes of 1994

AB 3682 (Margolin) Workers' Compensation Insurance.

Authorizes the Insurance Commissioner to reject rates by a workers' compensation insurer under the new competitive rating law, which the Commissioner determines unfairly discriminatory.

Status: Chapter 732, Statutes of 1994

AB 3741 (W. Brown) Workers' Compensation: health care provider organizations.

Permitted a physician's attestation: (1) that a written report before the Workers' Compensation Appeals Board (WCAB) is true and correct, and (2) that there was no violation of the

prohibition against the physician self-referral, to be attached to a state-issued form, instead of being made in the body of the report. Provided that attestations shall not be required as a condition of reimbursement for a report.

Status: Died in Assembly Insurance Committee

AB 3753 (Alby) Conditions of Compensation.

Added nurse practitioners to those licensed health practitioners who are "physicians" who may treat injured employees entitled to workers' compensation benefits. Prohibited a nurse practitioner from representing or advertising himself or herself as a "physician".

Status: Failed Passage in Assembly Insurance Committee

AB 3777 (Harvey) Workers' Compensation.

Repealed the provision which regulates attorney services in representing applicants before Workers' Compensation Appeals Board, (WCAB); Provided that there shall be no reimbursement for attorneys' services for representing applicants, employers or insurers before the WCAB. Permitted however, attorneys' fees for preparing and filing a petition for reconsideration, and for any appearances before the WCAB in presenting that petition. Required the Division of workers' compensation to make free legal information and assistance available to parties in workers' compensation cases.

Status: Failed Passage in Assembly Insurance Committee

SB 196 (Johnston) Workers' Compensation Insurance.

Permits workers' compensation insurers that deposit specified monies or securities with an out-of-state custodian in lieu of the surety bond required by law, to instead deposit approved securities registered with a qualified depository located in a reciprocal state. Permits summary procedures to use the surety obligations and deposits of a workers' compensation insurer, in certain circumstances. Authorizes the Insurance Commissioner to require a workers' compensation insurer to cease and desist making any further deposits approved in securities registered with a depository where a deposit of securities cannot be released.

Status: Chapter 297, Statutes of 1994

SB 437 (Hart) Physical Therapy: supervision of employees.

Authorized a licensed physician practicing in the specialities of orthopedics, or physical medicine and rehabilitation, or a physician engaging in the treatment of musculoskeletal or neuromuscular conditions with substantial medical training in the treatment of those conditions, to use one unlicensed aide to perform patient-related tasks to assist with aspects of physical therapy. Required the aide to be at all times under the orders, direction and immediate supervision of the physician.

Status: Died on Assembly Inactive File

SB 853 (Greene) Workers' Compensation: Negotiated Benefits.

Assists the Department of Industrial Relations in implementing the alternate workers' compensation program while also clarifying existing provisions which were part of SB 983, Chapter 117, Statutes of 1993.

Authorizes self-insured employers to establish alternative programs, defines the types of construction-related businesses authorized to participate in this alternative approach, and specifies information which must be submitted to the Department of Industrial Relations (DIR) in order to establish or continue such a program. Requires DIR to make available on a monthly basis, a list of employers and unions participating in this program.

Status: Chapter 963, Statutes of 1994.

SB 1004 (Johnston) Workers' Compensation.

Makes various changes to the workers' compensation program relating to fraud investigation and prosecution and the appointment of qualified medical evaluators.

Status: Chapter 301, Statutes of 1994

SB 1034 (Thompson) Workers' Compensation: peace officers.

Allows active law enforcement personnel employed by California State University to bargain collectively for enhanced industrial disability leave benefits equivalent to the injured employee's net take home salary on the date of injury.

Status: Chapter 50, Statutes of 1994

SB 1489 (Johnston) Workers' Compensation: claims file.

Required information contained in files of the Division of Workers' Compensation on claims by injured workers generally to be confidential. Restricted the release of the information in the files to specified parties of interest. Permitted employers limited access comply with the American With Disabilities Act or the Fair Employment and Housing Act.

Status: Vetoed

SB 1768 (Johnston) Workers' Compensation: notification to insurer.

Makes technical changes to the workers' compensation reform package of 1993.

Status: Chapter 1118, Statutes of 1994

SB 1803 (Johnston) Workers' Compensation.

Makes technical changes to the workers' compensation reform package of 1993.

Status: Chapter 1097, Statutes of 1994

SB 1853 (Leonard) Workers' Compensation.

Required the workers' compensation claim form, when signed, to state that the claim form would be a notice of claim which authorized the release of medical information necessary to evaluate the claim.

Status: Died in Assembly Insurance Committee

SB 1871 (Torres) Workers' Compensation Insurance: rating organizations.

Changed the membership of the rating organization's governing board to consist of 11 members appointed by the Commissioner to serve 4 year terms. The composition of the governing committee would have consisted of five representing workers' compensation insurers, three representing organized labor and three representing insured employers.

Status: Vetoed.

SB 1945 (Killea)

Workers' Compensation: Judges.

Changed the statutory title of state employees who initially hear and decide disputed workers' compensation cases from "referee" to workers' compensation "judges."

Status: Vetoed.

INSURANCE COMMITTEE SPECIAL HEARINGS

I. JOINT HEARING OF THE ASSEMBLY INSURANCE COMMITTEE AND THE SENATE INSURANCE, CLAIMS AND CORPORATIONS COMMITTEE.

Date: February 1, 1994

Subject: Earthquake Insurance

In response to the aftermath of the Northridge earthquake, the Assembly Insurance Committee, along with the Senate Insurance, Claims and Corporations Committee, held a joint fact-finding hearing on earthquake insurance.

The Committees took testimony on the property damage estimates from the Northridge Earthquake. The current law mandating the offering of earthquake insurance coverage for homeowners was also discussed in relation to availability of such products in California. The Committee heard from the Department of Insurance, industry representatives and consumer representatives regarding the 1990 California Residential Earthquake Recovery Fund and the Federal Natural Disaster Protection Act of 1993 as potential solutions to the availability of earthquake insurance.

The hearing was televised statewide on the Cal Channel. Viewers who were affected by the earthquake were able to call in during the hearing to express concerns.

Outcome: Chairwoman McDonald co-authored SJR 37 with Senator Torres, memorializing Congress and the President to enact the Natural Disaster Protection Act.

II. REVIEW OF THE STATE AUDITOR'S REPORT ON THE DEPARTMENT OF INSURANCE CONSERVATION AND LIQUIDATION DIVISION.

Date: July 5, 1994

Subject: Management Practices at the Conservation and Liquidation Division of the Department of Insurance

In May, 1994, the State Auditor released an audit report entitled: "Poor Management Practices at the Department of Insurance's Conservation and Liquidation Division Warrant the Department's Continued Corrective Action." In response to that report, the Assembly Insurance Committee conducted a special hearing to hear testimony from the State Auditor

and the Department.

California law authorizes the Insurance Commissioner to conserve or to liquidate insurers that become insolvent, subject to court supervision. The Commissioner is also empowered to seize the assets of persons or entities which attempt to engage in the transaction of insurance in California without authority to do so. During conservation, an insurance company is placed under court-ordered control to conserve the insurer's assets until the insurer's status is determined. If the insurance commissioner determines that it would be futile to rehabilitate the insurer, he or she may apply to the court for an order to liquidate the assets of the insurer. The Conservation and Liquidation Division performs those functions within the Department of Insurance.

The State Auditor testified that the Division had been deficient in several areas: the failure to develop a strategic plan for the conservation and liquidation of conserved insurers, poor personnel practices; improper management of consultant contracts and contracts for legal services; improper allocation of costs to conserved insurers, resulting in disproportionate charges to conserved insurers, and other specific problems.

The Commissioner and Division spokespersons responded to the issues raised by the State Auditor, and detailed corrective action which the Department was undertaking to meet those concerns.

Outcome: SB 1980 (Kopp) was enacted, which requires the Commissioner to notify the Joint Legislative Budget Committee of specific appointments in insurance conservatorship and liquidation proceedings, and which prohibits paying the costs of employing such individuals out of the assets of another insolvent insurer's estate.

The Committee formally requested the Joint Legislative Audit Committee to request the State Auditor to update its audit of the Division on the anniversary of its report, in May, 1995.

III. JOINT HEARING OF THE SENATE HEALTH COMMITTEE AND THE ASSEMBLY INSURANCE AND HEALTH COMMITTEES.

Date: September 9, 1994

Subject: Proposition 186: The Effect of the Initiative on the Economy and the Quality of Health Care in California

The Assembly Insurance Committee joined the Senate Health Committee and the Assembly Health Committee to conduct the initial informational hearing on Proposition 186: The California Health Security Act. The Committees took testimony on the effect of the initiative on the quality of health care received by Californians as well as fiscal impacts associated with implementing the initiative.

Outcome: The Senate Health Committee fulfilled its legislative mandate to hold a hearing on an initiative within its subject matter jurisdiction that qualified for the ballot.

IV. JOINT HEARING OF THE ASSEMBLY INSURANCE AND HEALTH COMMITTEES.

Date: September 16, 1994

Subject: Proposition 186: The Effect of the Initiative on California's Uninsured Population

Date: September 23, 1994

Subject: Proposition 186: The Effect of the Initiative on California's Present Health Care Delivery System

Date: September 27, 1994

Subject: Proposition 186: The Effect of the Initiative on Existing Federal, State and Local Government Health Programs

The Assembly Insurance Committee and Assembly Health Committee held a series of informational hearings on Proposition 186 as required by law.

The Committees were joined by the Senate Insurance Committee in the final two hearings.

The Committees took testimony on the relevant issues from economists, health care experts and professionals, government representatives, labor representatives, senior representatives, consumers and others to name a few.

Outcome: The Assembly Insurance Committee, the Assembly Health Committee and the Senate Insurance Committee fulfilled their legislative mandate to hold a hearing on an initiative within their subject matter jurisdiction that qualified for the ballot. Each Committee promised to make health care reform a

priority on their legislative agenda in 1995 if Proposition 186 was unsuccessful.