

2001

2001 Legislative Summary

Assembly Committee on Insurance

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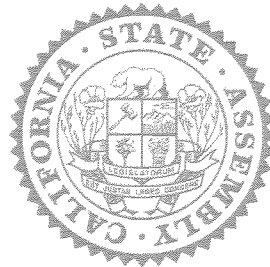
Assembly Committee on Insurance, "2001 Legislative Summary" (2001). *California Assembly*. Paper 377.
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California State Legislature

ASSEMBLY COMMITTEE ON INSURANCE 2001 LEGISLATIVE SUMMARY

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Assembly
California Legislature
Committee on Insurance

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December 3, 2001

To All Interested Parties:

The following summary of legislation lists all of the bills that came before the Assembly Insurance Committee during the 2001 legislative year. Each is organized in numerical order and indicates the results for each bill. The summary of each bill is not intended as a definitive or comprehensive statement of the provisions of the bill. Rather, it is intended to provide general information to the reader of the subject that the bill addresses. For more detailed information about any bill, please go to the Assembly's web page at www.assembly.ca.gov and click on "Legislation."

In addition to policy hearings on insurance legislation, the Assembly Insurance Committee conducted four informational hearings at the beginning of the legislative session to review the Department of Insurance, the State Fund, reform issues in the workers' compensation system and increase benefits to injured workers.

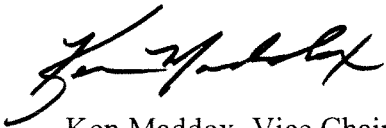
The committee also addressed issues regarding the California Earthquake Authority (CEA) and their solvency and survivability. Upon the CEA-commissioned Tillinghast-Towers Perrin Report which was released in July of this year, it was determined that a subsequent report was necessary to further address issues in the CEA and the committee will conduct further informational hearings to address their recommendations.

For additional information regarding this summary or other activities of the committee, please contact the committee staff at (916) 319-2086.

Respectfully,



Thomas M. Calderon, Chair



Ken Maddox, Vice Chair

ASSEMBLY INSURANCE COMMITTEE
2001
Legislative Summary

AB 176 (Nation) *[Chapter 73 / 2001]*
Provides that a deposit of securities registered with a qualified depository located in a reciprocal state must be made in a bank or savings and loan association authorized to engage in the trust business, or a trust company, that is licensed to do business and located in California, and that is qualified custodian with a specified minimum amount of deposits.

AB 196 (Correa) *[Chapter 833 / 2001]*
Eliminates the requirement that certain law enforcement officers, firefighters, and probation employees bear the burden of proof in establishing a blood-borne infectious disease presumption for the purpose of receiving disability retirement benefits, and expands the scope of the term "injury" to include a blood-borne infectious disease for the purpose of receiving workers' compensation benefits. Extends the compensable injury presumption for hernia, heart trouble, pneumonia, tuberculosis, and meningitis to members of the California Highway Patrol (CHP).

AB 262 (Correa) *[Chapter 589 / 2001]*
Requires the continuation of death benefits payments under the Workers' Compensation Law to a totally dependent minor child of a local safety member or patrol member, as defined, if the member was killed in the line of duty prior to January 1, 1990.

AB 392 (Maddox) *[Chapter 660 / 2001]*
Requires the Commissioners of Real Estate, Corporations, and Insurance to notify each other when taking enforcement or disciplinary action related to specified escrow services, and maintain websites that include a database of individuals who have been subject to such disciplinary actions.

AB 584 (Cox) *[Chapter 415 / 2001]*
Allows foreign or alien insurers to sell stock to fire and casualty broker-agents without obtaining a permit from the Insurance Commission if certain conditions are met.

AB 663 (Vargas) *[Chapter 846 / 2001]*
Defines the term "injury" for workers' compensation claims of local and state government lifeguards and creates a rebuttable presumption that an "injury" arises out of the lifeguard's employment if the "injury" develops or manifests itself during the period of employment.

AB 931 (Frommer) *[Chapter 336 / 2001]*
Prohibits the Insurance Commissioner from accepting, using, or benefiting from travel reimbursements or payments made to the commissioner or the Department of Insurance from specified entities.

AB 1118 (Corbett) *[Chapter 895 / 2001]*
Authorizes a tax credit for seismic retrofit expenses and appropriates funds to the Department of Insurance for retrofit grants and loans.

AB 1176 (Calderon) *[Vetoed]*
Authorizes a health care provider or facility and an employer or carrier to contract for reimbursement rates that are different from the official workers' compensation medical fee schedule.

AB 1177 (Calderon) *[Chapter 252 / 2001]*
Permits a health care provider or licensed health facility, as specified, and a contracting agent, employer, or carrier to contract for reimbursement rates different from those in the official medical fee schedule.

AB 1178 (Calderon) *[Chapter 51 / 2001]*
Imposes the requirements of the Senior Insurance Law on direct-marketed health insurance products, and also extend by 90 days the July 1, 2001 deadline for compliance with long-term care insurance law.

AB 1179 (Calderon) *[Chapter 240 / 2001]*
Requires an employer or insurer to make available to its workers' compensation bill reviewer all documentation submitted with the billing by a physician or medical provider.

AB 1180 (Calderon) *[Chapter 102 / 2001]*
Requires that an insurer provide a premium and loss history report, and loss experience information for the current policy period with respect to certain policies of commercial insurance and workers' compensation, upon the request of the insured, or the agent, or broker of record, where authorized by the insured, irrespective of nonrenewable.

AB 1183 (Calderon) *[Chapter 296 / 2001]*
Allows the California Insurance Guarantee Association (CIGA) to increase the premium paid by member companies from the current 1% of net direct written premium to 2% thereby triggering, upon CIGA board approval; an increase in the workers' compensation premium, and would require new audits of CIGA for a time period of one year.

AB 1193 (Steinberg) *[Chapter 253 / 2001]*
Prohibits insurers from canceling or refusing to renew a policy of a religious or educational organization or other nonprofit organization organized and operated for religious, charitable, or educational purposes solely on the basis that one or more claims has been made as a result of a hate crime committed against the person or property of the insured during the preceding five years.

AB 1194 (Correa) *[Chapter 229 / 2001]*
Permits physician assistants and nurse practitioners to provide medical treatment of a work-related injury and to cosign a doctor's first report of injury, as specified.

AB 1258 (Wiggins) *[Chapter 465 / 2001]*
Provides that at least one member of the Unemployment Insurance Appeals Board be from organized labor.

AB 1374 (Wiggins) *[Chapter 791 / 2001]*
Provides that a leave of absence by a city, county or district firefighter ("4850 time") shall not be deemed to constitute or to reduce the time authorized for family care and medical leave.

AB 1537 (Horton) *[Chapter 255 / 2001]*
Requires all federally recognized Indian tribes in California to provide unemployment insurance coverage to their employees and gives Indian tribes the option of reimbursable financing for the unemployment insurance program.

ASSEMBLY INSURANCE COMMITTEE'S 2001 SENATE BILLS

SB 40 (Alarcon) *[Chapter 409 / 2001]*
Increases maximum weekly Unemployment Insurance benefits and requires the Employment Development Department to conduct a study regarding eligibility for unemployment insurance benefits and an alternative base period; qualifies specified part-time employees for benefits; and clarifies that penalty amounts given to employees under the federal plant closure law are not considered wages for purposes of benefit reduction.

SB 63 (Scott) *[Chapter 174 / 2001]*
Authorizes a fire and casualty licensee to transact the coverage's that a personal lines licensee is authorized to transact. Existing law, operative January 1, 2002, requires the examination and licensure of a person to act as a personal lines licensee, as defined.

SB 71 (Burton) *[Vetoed]*
Increases workers' compensation benefits and reforms in the administration of the workers' compensation system.

SB 80 (Speier) *[Chapter 630 / 2001]*
Makes the officers and employees of CLO subject to the same conflict-of-interest and financial disclosure requirements that would apply if they were employees of the Department of Insurance and would require the department prior to February 1, 2002, to adopt a Conflict of Interest Code, as specified, with respect to those officers and employees. Also subjects a person contracting with CLO to conflict-of-interest requirements, as specified, that would apply to the same extent as would apply to a person with a similar contractual relationship with the department and require the department to ensure compliance with its provisions.

SB 81 (Speier) *[Chapter 95 / 2001]*
Permits an injured, insured owner of a motor vehicle to recover damages under the uninsured motorist coverage of his/her policy if he/she is struck by his/her own insured car while it is being operated without his/her permission in the course of a criminal activity. The criminal activity must be one to which the injured insured is not a party and must be documented in a police report.

SB 424 (Burton) *[Chapter 834 / 2001]*
Defines the term "injury" for workers' compensation claims of certain law enforcement personnel to include a lower back impairment. Applies to members of a city, county, or city and county police department, members of the sheriff's office, peach officers employed by the California Highway Patrol

(CHP), and peace officers employed by the University of California who have been employed for at least five years as a peace officer on a regular, full-time salary and required to wear a duty belt as a condition of employment.

SB 658 (Escutia) [Chapter 583 / 2001]
Modifies the standard form of fire insurance policy for California relative to the obligations of the insured and insurer. Requires that all conditions applicable to loss requirements, appraisals, and adjusters contained in standard form fire insurance policies apply to residential property insurance policies, policies providing coverage for loss or damage caused by earthquake, and basic residential earthquake insurance policies.

SB 708 (Speier) [Chapter 727 / 2001]
Creates new requirements for earthquake insurance adjusters and insurers, expands the earthquake mediation program to include automotive claims, prohibits the Department of Insurance (DOI) from refusing to investigate complaints under specified circumstances, and limits the authority of DOI to enter into settlement agreements referencing the existence of extraordinary circumstances.

SB 1136 (Polanco) [Chapter 448 / 2001]
Repeals the sunset clause in four sections of the Insurance Code that establish conditions and limitations on advertising by surplus line brokers, nonadmitted insurers, and special lines surplus line brokers.

SB 1176 (Machado) [Vetoed]
Extends the cancer presumption under the Workers' Compensation Law to the following additional categories of peace officers: employees of the Department of Fish and Game, employees of the Department of Parks and Recreation (DPR), and investigators of the Department of Toxic Substances Control.

SB 1222 (Romero) [Chapter 835 / 2001]
Creates a disputable presumption that a hernia, heart trouble, pneumonia, cancer, tuberculosis, or meningitis developing or manifesting itself with respect to specified state public safety personnel arises out of and in the course of employment of service.

BILLS NOT SENT TO THE GOVERNOR:

The following bills, if enacted, would:

AB 5 (Calderon)
Prohibits an insurer from refusing to issue or renew a private passenger automobile insurance policy based solely on information obtained from a consumer credit report and would provide for the imposition of civil penalties on an insurer that violates its provisions. *In Senate Insurance.*

AB 129 (Pacheco)
Requires an applicant for employment, upon the request of an employer, to disclose whether he or she has ever been determined to have committed any unlawful acts or been convicted of violating unlawful acts. *In Assembly Insurance. Died in Committee*

AB 337 (Correa)

Requires an insurance company to provide written notification to an insured or owner of a total loss salvage vehicle, which notification contains specified information regarding the insured's or owner's responsibilities, on a form prescribed by the department of insurance, which requirement would become effective 180 days after the department promulgates the form. *In Senate Appropriations.*

AB 372 (Nation)

Revises the definition of "service contract" for appliance and repair dealers to mean a contract in writing to perform the repair, replacement, or maintenance of new or used personal property for operational or structural failure of personal property, as specified, and would make other related changes. *In Assembly Business and Professions.*

AB 486 (Steinberg)

Requires that at least one of the seven board members on the Workers' Compensation Appeals Board be from organized labor. *Returned by the Governor at the Request of the Assembly.*

AB 507 (Havice)

Extends to Los Angeles County custody assistants the provision entitling certain peace officers and other specified public employees, who are disabled by injury or illness arising out of and in the course of their duties, to a leave of absence without loss of salary up to one year, in lieu of temporary disability payments. *In Senate Labor and Industrial Relations.*

AB 512 (John Campbell)

Requires the annual report to include the percentage of low-cost automobile insurance purchasers who have previously purchased. *In Assembly Insurance.*

AB 519 (Richman)

Requires the administrative director of Workers' Compensation to adopt an official payment schedule for outpatient surgeries performed pursuant to the workers' compensation laws of this state. *In Assembly Insurance.*

AB 541 (Maddox)

Provides that a person is not qualified to purchase a Good Driver Discount policy if he or she has been incarcerated for a period of excess of 30 days during the 3-year period immediately preceding the effective date of an motor vehicle insurance policy. *In Assembly Insurance.*

AB 588 (Washington)

Specifies that the laws prohibiting controlled escrow companies or title insurers and other specified persons engaged in the business of furnishing evidence of title to real property from paying for or finishing or offering to pay for or furnish any part of the advertising or promotional material of a customer in connection with the sale of real property not to be interpreted to prohibit commercial speech protection by the California Constitution. *In Assembly Insurance.*

AB 683 (Calderon)

Adds to the exclusion, for purposes of the installment payment of gross premiums of surplus line broker gross premium taxes, gross premiums paid for finite risk average for environmental remediation, as defined. *In Assembly Insurance.*

AB 940 (Keeley)

Increases the size of the California Earthquake Authority from 3 to 5 members. Adds the Chairman of the Assembly Judiciary Committee to receive reports of the authority of payment of claims by the authority relative to a seismic event. *In Senate Appropriations.*

AB 1109 (Maddox)

Deletes the Workers' Compensation prohibition on those 3rd-party administrators. Also authorizes an insured employer, or the employer's agents, brokers, and certain employees, to obtain medical information regarding an injury to an employee who has filed a workers' compensation claim. *In Assembly Insurance.*

AB 1175 (Calderon)

Declares the intent of the Legislature to authorize a 3-year pilot program to encourage small employers to provide health insurance for the working uninsured, and to exempt insurers from certain requirements in order to provide an opportunity to demonstrate that relief from these requirements results in increased health care coverage for the working uninsured. *In Assembly Insurance.*

AB 1181 (Calderon)

Requires the Commissioner of Insurance to make specific written findings of fact and conclusions of law when imposing a civil penalty upon a person engaging in unfair methods of competition or unfair or deceptive acts or practices in the business of insurance. Requires the commissioner to include written findings of fact and consultations of law with the report that is issued and served upon a person for engaging in specified prohibited acts. *In Assembly Judiciary*

AB 1182 (Calderon)

Expands the authority of the California Earthquake Authority to enter into reinsurance agreements and capitol market contracts. *Rescinded.*

AB 1293 (Hollingsworth)

Intends that the Department of Motor Vehicles (DMV) continue to develop an electronic reporting system for evidence of financial responsibility. *In Senate Rules.*

AB 1384 (Cox)

Prohibits the Insurance Commissioner (IC) from accepting travel reimbursements or payments, except under certain conditions, from specified entities and individuals. *In Senate Insurance.*

AB 1446 (Maddox)

Prohibits the application of the state's workers' compensation system to injuries and occupational disease that are subject to the federal Longshore and Harbor Workers' Compensation Act and regulations promulgated under the act, until proceedings for the recovery of benefits under the act or those regulations have been instituted and exhausted. *In Assembly Insurance.*

AB 1488 (Chavez)

Prohibits the rating plan of a motor vehicle liability insurer from increasing the premium of an insured based upon an accident in which the insured was not at fault. Existing law, enacted by Proposition 103, requires rates and premiums for automobile insurance policies to be determined by the application of specified factors and prohibits an insurer from refusing to offer and sell a Good Driver Discount policy to any person who meets specified requirements. *In Senate Insurance.*

AB 1727 (Insurance)

Revises the provisions governing RBC reports to provide that confidential documents, information, or materials associated with those reports shall also not subject to discovery or be admissible in evidence in any private civil action. Also provides that the commissioner and persons in his or her office shall not be permitted or required to testify in any private civil action concerning those confidential documents, information, or materials. *In Assembly Insurance.*

AB 1728 (Insurance)

Provides that the bureau shall be known as the Fraud Division of the Department of Insurance. The bill would also repeal certain legislative declarations and findings concerning insurance fraud. *In Assembly Insurance.*

AB 1729 (Insurance)

Requires the annual report to the Governor and the Legislature of a strike force on the underground economy to be made by June 30 of each year. Also requires that the director provide certain information to school employers by October 15 of each year. It changes the reporting date to February 15. *In Assembly Insurance.*

AB 1730 (Insurance)

Deletes specified exceptions from the state law which governs the use and acceptance of electronic records and electronic signatures the provisions in this bill makes a technical, nonsubstantive change to that provision. *In Assembly Insurance.*

AB 1731 (Insurance)

Requires rates and premiums for automobile insurance policies to be determined by the application of specified factors and prohibits an insurer from refusing to offer and sell a Good Driver Discount policy to any person who meets specified requirements. Deletes the provisions authorizing insurers to submit applications. Because the bill would amend Proposition 103, it requires a 2/3 vote for enactment. *In Assembly Insurance.*

AB 1732 (Insurance)

Repeals the Industrial Loan Law and enacts the Insurance Premium Finance Law, pursuant to which the commissioner would license and regulate insurance premium financing corporations, which are in the business of advancing money directly or indirectly to an insurer or insurance producer at the request of an insured pursuant to the terms of a premium finance agreement. *In Assembly Insurance.*

AB 1733 (Insurance)

Provides that in the absence of case law applying or interpreting a statute governing title insures, the commissioner shall use the past official actions, rules, practices, correspondence, documents, or other working procedures of the Department of Insurance in order to interpret and apply that statute. *In Assembly Insurance.*

SB 523 (Alpert)

Requires the Employment Develop Department (EDD), upon granting Unemployment Insurance (UI) training extension benefits to a claimant, to notify the claimant's employer(s) of the amount by which the changes to their UI reserve account may increase. It further provides that, in the absence of fraud, no claimant shall be liable for repayment of training extension benefits if subsequently found to be ineligible for the benefits. *Rescinded.*

SB 706 (Speier)

Eliminates unearned premium from the definition of the California Earthquake Authority's available capital. *In Assembly Appropriations.*

SB 834 (Escutia)

Requires insurers who sell homeowner's insurance, commercial insurance, or fire policies to annually submit to the State Insurance Commissioner a record of loss experience, per exposure, for each geographic area, for examination, and a community service statement for each ZIP Code served by the insurer. *In Assembly Insurance.*

SB 1128 (Kuehl)

Provides that an unemployment insurance eligibility determination of whether a person is an employee or an independent contractor shall incorporate the principles of a California Supreme Court decision. Declares and finds that various labor laws are part of an overall social insurance program. *In Assembly Insurance.*

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LIST OF ABBREVIATIONS

C&R	Compromise and Release
CARRP	California Association of Rehabilitation & Reemployment Professionals
CWCI	California Workers' Compensation Institute
DEU	Disability Evaluation Unit
DWC	Division of Workers' Compensation
EDD	Employment Development Department
IVE	Independent Vocational Evaluator
P&S	Permanent and Stationary
PPD	Permanent Partial Disability
PTD	Permanent Total Disability
QME	Qualified Medical Examiner
QRR	Qualified Rehabilitation Representative
RU94	Offer of Modified/Alternative Work
RU103	Request for Dispute Resolution
SCIF	State Compensation Insurance Fund
TD	Temporary Disability
TPA	Third Party Administrator
TPD	Temporary Partial Disability
TTD	Temporary Total Disability
VR	Vocational Rehabilitation
VRMA	Vocational Rehabilitation Maintenance Allowance
WCAB	Workers' Compensation Appeals Board
WCIRB	Workers' Compensation Insurance Rating Bureau
WCRI	Workers' Compensation Research Institute