

California State Senate

SENATE COMMITTEE ON INSURANCE

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February 11, 2015

Insurance Commissioner Dave Jones
Department of Insurance
300 Capitol Mall, Suite 1700
Sacramento, CA 95814

Dear Commissioner Jones:

As the new Chairman of the Senate Insurance Committee and Senate Budget Subcommittee 4, I look forward to working with you on insurance issues this year. I know that you have been a tireless advocate for both California insurance consumers and a healthy insurance marketplace. As you may know, Senate President pro Tempore Kevin de Leon has directed committees to engage in vigorous oversight of the agencies and programs within their jurisdiction, a charge I take very seriously. Your cooperation and efforts will be much appreciated in establishing a robust exchange between these committees and the California Department of Insurance (CDI).

The Senate Insurance Committee's first oversight hearing will be of the State Compensation Insurance Fund (State Fund) on March 11, 2015 at 1:30 in Room 112. As the regulator of State Fund, I respectfully request your participation in that hearing. As you know, in 2008 State Fund was the subject of serious allegations of financial and operational improprieties involving senior officials. An internal State Fund audit and an audit by the CDI at the time provided scathing reviews of an organization run amok, with poor business and accounting practices throughout the organization. Legislation in 2008 expanded the Governing Board to 11 members, granted it additional exempt positions, and subjected board meetings to the Bagley Keene open meetings law. There have been many changes in the leadership, size, scope and operations of State Fund since that time. I believe you can provide important information and insight into the effectiveness of those changes. In addition, I request that you provide committee staff with any CDI audits or other reviews of State Fund in the past five years no later than February 24, 2015.

In 2009, the CDI provided legislative staff with a presentation covering its operations, including its budget and revenue streams. I have attached a copy of the handout of 2009 presentation for your reference. In order to initiate and expedite the oversight process, I am requesting that CDI arrange a similar staff briefing before March 15, and reinstitute this process on an annual basis. Please also direct staff to a location in Sacramento where they may view or copy publicly available documents created by or filed with the CDI.

Additionally, I am requesting the following information and documents so that the committee may further examine CDI's operations, specific insurance issues, and the status of recent legislative enactments. Please provide the following to the committee no later than March 15, 2015:

1. Copies of any operational review or audit reports within the past five years.
2. A breakdown of the staffing levels (in personnel years) and budget authority for the last five fiscal years broken down by branch, division, or office.
3. A summary of the department's current budget and revenue streams similar to the enclosed handout provided in the 2009 Organizational and Fiscal Overview Presentation.
4. A description of how the department measures the performance of each branch, division, or office, its current goals, and the status in meeting those goals.
5. The number of consumer complaints, consumer recoveries directly attributable to CDI's intervention, budget, and staff by each year related to recoveries by Consumer Services and Market Conduct Branch. Please also include the number of examinations performed by the Field Claims Bureau and the Field Rating and Underwriting Bureau for the last five years, as well as general actions by the Consumer Services Branch.
6. A description of how the license fee reductions of 2004 impacted CDI operations, including identification of the amount of decrease of revenue directed at which office, branch, or program. Were any programs terminated?
7. A description of how the additional revenue from license fee increases put into effect in 2013 and 2014 have been used, including identification of the amount of increase directed at which office, branch, or program, and how that revenue has been used. Please identify whether the new revenue replaced lost revenue due to the 2004 reduction or whether the new revenue was used to fund new initiatives or personnel.
8. A list and summary of precedential or any significant legal matters, including administrative hearings or cases decided or that are pending over the last 5 years that resulted in, or could result in, a change in the way CDI implements, interprets, or administers regulations, statute, or policies. Please describe the legal impact of the case (including any amount recovered from respondent), the disposition and status, and an estimate of all related costs for each matter (including personnel time, amounts paid to the attorney general or outside counsel, hearing costs, amount recovered from respondent, etc.). Please include the following cases: *In the Matter of Western General Insurance Company*, Case No UPA 2008 00018; *Association of California Life & Health Insurance Companies v. California Department of Insurance*, Case No. 34-2040-80000637; *In the Matter of Globe Life and Accident Insurance Company et al*, Case No UPA-2008-00017; *Association of California Insurance Companies et al. v. Dave Jones*, Case No. BC463124; and *In the Matter of PacifiCare Life and Health Insurance Company*, Case No. UPA 2007-00004.

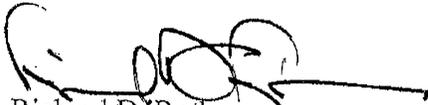
9. A summary of any legal matter involving a stipulated settlement, still in force, resulting in a modification of how CDI interprets, implements, or enforces its regulations or statute. Please include an estimate of costs for each matter.
10. A description of the process involved in the approval of disability insurance policy forms. Please also include the current average length of time it takes for policy form approval by type of coverage (disability income, long-term care, etc), a description of the trend over the last five years, and an explanation for any approvals that took more than one year from the completed filing. Please describe any potential impact of the recent decision in *Ellena v. Department of Insurance* (2014) 230 Cal.App.4th 198.
11. The number of prior-approval rate filings for 2013 and the current average length of time it takes for approval and the trend over the last five years. Please provide a list of all rate approval applications in which intervenors took part and the approval process took more than six months from the dated of a completed filing, and the final result of those applications. If any of those filings took more than one year for final approval, please explain why.
12. The number of insurers examined by the Field Examination Division for each year over the last five years; an estimate of costs for a typical financial examination for a small, medium, and larger-sized insurer; a list of insurers currently flagged by financial exams as financially troubled; and a description of the methods used by CDI to monitor these insurers.
13. A summary of the impact of the recent revisions to the Insurance Holding Company System Regulatory Act by SB 1448 in 2012, as well as the implementation of the Own Risk and Solvency Assessment (ORSA).
14. The number of enforcement actions taken against insurers for violating California Code of Regulations, Title 10, Section 2695.8. Please describe the impact, if any, of the amendments adopted to that section in 2012 (in effect 2013).
15. A summary of complaints relating to the Uniform Electronic Transactions Act or the misuse of electronic transactions, the number of those complaints found to be justified, and a list of any enforcement actions taken against an insurer. Please also provide a description of the impact on the CDI, if any, of the enactment of SB 251.
16. A description of the current status of the implementation of AB 2293 in making transportation network company insurance readily available including a list of insurers with pending rating applications, a list of insurers that have received approval, a description of any challenges the CDI has faced with insurers seeking such approval.

Please feel free to contact committee consultants Hugh Slayden and Erin Ryan if you have any questions regarding these requests.

The CDI and its hardworking and dedicated employees play a critical role in assuring strong protections for California consumers and a healthy insurance market. I appreciate your prompt

response to these requests, and I look forward to working with you in the coming months and years.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard D. Roth', with a long horizontal line extending to the right.

Richard D. Roth
Senator, 31st District

RDR/hrs

Enclosure

CALIFORNIA DEPARTMENT OF INSURANCE

**CALIFORNIA DEPARTMENT OF INSURANCE
ORGANIZATIONAL AND FISCAL OVERVIEW
PRESENTATION**

FOR

CALIFORNIA STATE LEGISLATIVE STAFF

NOVEMBER 16, 2009

California Department of Insurance

2009 Quick Facts

- CDI regulates California's \$118 billion insurance industry, the fourth largest insurance market in the world. It oversees a litany of areas including life, fire, homeowner, automobile, marine, title, surety, disability, liability, workers compensation, boiler and machinery, credit, burglary, mortgage and financial guaranty, home protection companies, grants and annuities, fraternal societies, surplus line carriers, and motor clubs.
- CDI collects approximately \$2.1 billion in premium and surplus lines taxes annually that are deposited in the General Fund.
- California's market share in life insurance is 9.68% of the national premium written. California is #1 in the nation in market share. (Source: NAIC- CY 2006)
- California's market share of Property and Casualty is 12.89% of the national premium written. California is #1 in the nation in market share. (Source: NAIC- CY 2006)
- CDI licenses approximately 227,000 "resident" agents/brokers/adjusters and approximately 97,000 non-resident agents/brokers/adjusters.
- CDI averages approximately 6,500 applications received for new agent/broker/adjuster licenses every month. CDI receives nearly 10,000 renewal applications every month from agents/brokers.
- CDI receives approximately 30,000 calls every month from the Producer Licensing Hotline. The majority of these calls are from agents/brokers/companies. The staff personally assists approximately 18,000 callers each month. The electronic response system assists the remaining callers. Similarly, on average, the CDI receives over 25,000 calls from consumers every month through its consumer Hotline.
- CDI receives approximately 25,000 suspected fraudulent claims (SFCs) annually. The SFCs relate to workers' compensation, automobile, property/casualty, disability/healthcare, and life. The SFCs are reported by insurance carriers, consumers, law enforcement, businesses, and governmental agencies. Additionally, approximately 1,200 complaints regarding agent/broker/producers activities are reported annually by consumers and other stakeholders.
- CDI is supported entirely from the Insurance Fund (license fees and penalties, insurance company exam fees, Proposition 103, fraud assessments, etc.).

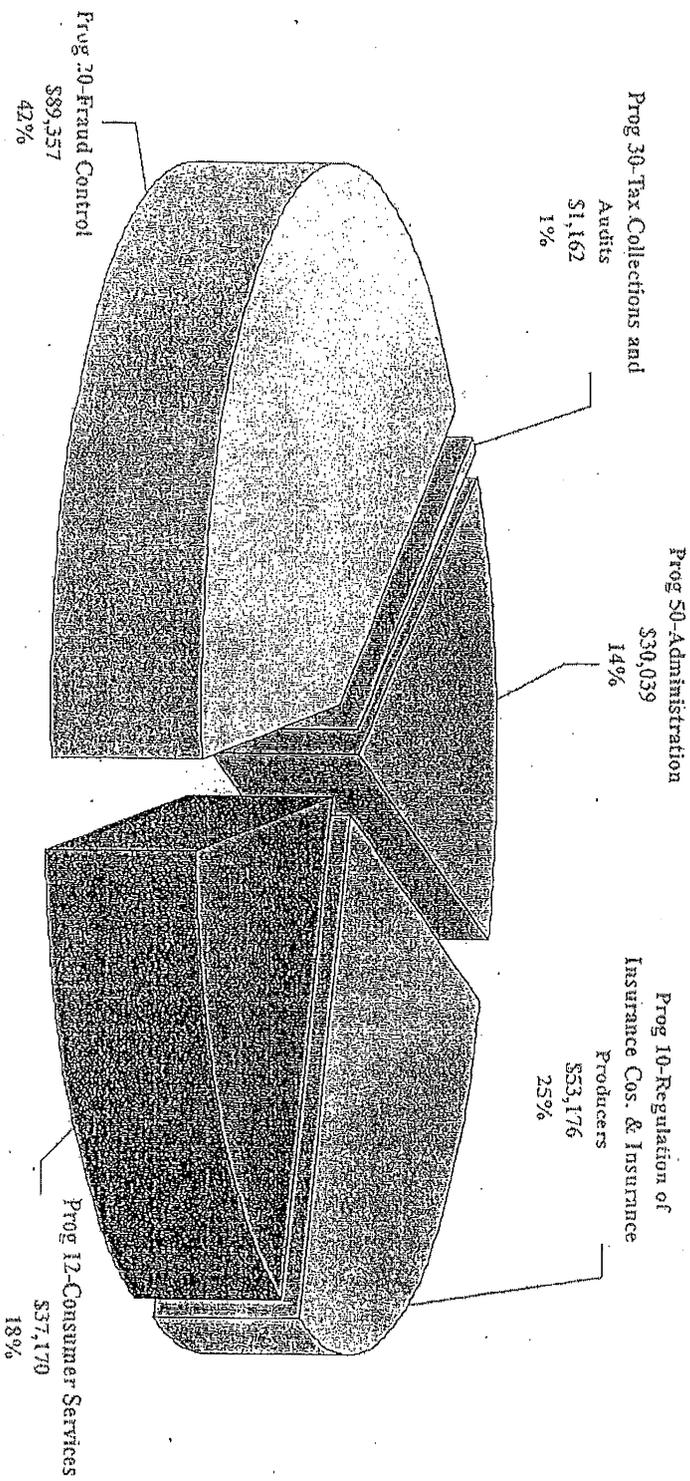
CALIFORNIA DEPARTMENT OF INSURANCE

FY 2009-10 BUDGET

By Program*

\$210,904

(\$ in thousands)



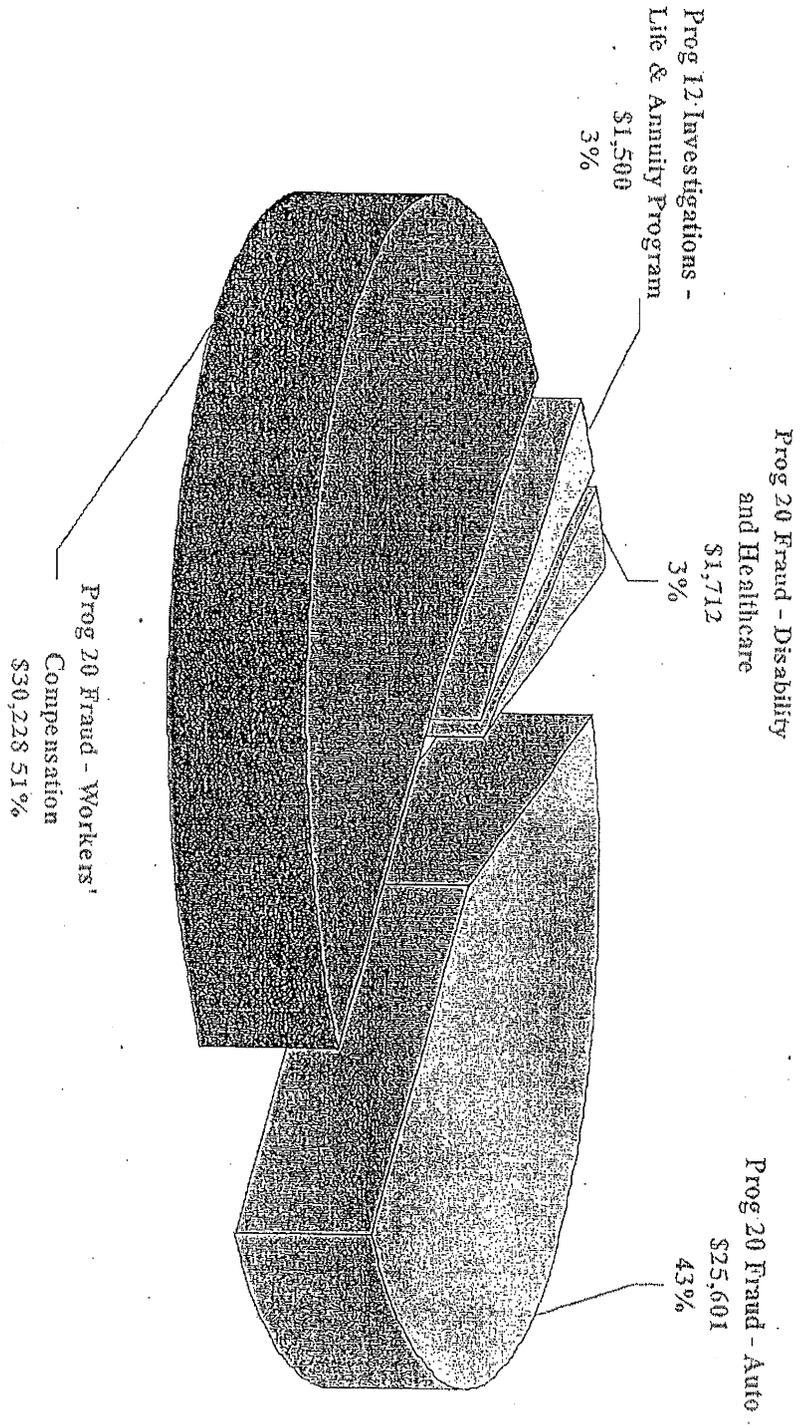
- Prog 10-Regulation of Insurance Cos. & Insurance Producers
- Prog 20-Fraud Control
- Prog 50-Administration
- Prog 12-Consumer Services
- Prog 30-Tax Collections and Audits

* Does not include distributed administration costs

CALIFORNIA DEPARTMENT OF INSURANCE

FY 2009-10 ACT
 LOCAL ASSISTANCE
 \$59,041
 (\$ in thousands)

*SR Curran
 Compensation
 6/9
 P. Curran*



- Prog 20 Fraud - Auto
- Prog 12 Investigations - Life & Annuity Program
- Prog 20 Fraud - Workers' Compensation
- Prog 20 Fraud - Disability and Healthcare

CALIFORNIA DEPARTMENT OF INSURANCE

Restricted *Rumors*

127400 30	AB 1183 (\$0.30)	Consumer service and protection piece of the \$1.80 collected per vehicle insured by an insurer, self-assessed quarterly.
123200	Examinations	Hourly rates developed annually to recover the cost of performing insurance practice exams, financial analysis reviews, field exams and actuarial reviews.
127100	Proposition 103	Annual assessment to support activities to ensure that rates are raised fairly and only when appropriate.
127300	Workers' Compensation	Annual assessment determined by the Fraud Assessment Commission used for workers' compensation fraud investigation and prosecution.
127500	Fraud, General	Annual billing of \$2,100 to each insurer doing business in the state to support fraud general activities.
127500 20	Fraud, Health Assessment (\$0.10)	Annual assessment of each disability insurer (\$0.10 for each insured person) for investigation and prosecution of fraudulent disability insurance claims.
	✓ Fraud Auto (\$1.00 & \$0.50)	
127400 00	Fraud Auto (\$1.00)	Investigation and prosecution of automobile fraud piece of the \$1.80 collected per vehicle insured by an insurer, self-assessed quarterly.
127400 50	✓ Fraud Auto (\$.50)	Fraud interdiction program piece of the \$1.80 collected per vehicle insured by an insurer, self-assessed quarterly (sunsets 1/1/15).
127200 20	Seismic Safety	Annual assessment to fund the Seismic Safety Commission (amount set by the Commission).
127200 23	Life & Annuity Assessment	Self-assessed bi-annually by life companies, \$1 for each qualifying policy with a value of \$5k or more sold in California to fund the Life & Annuity Consumer Protection Program.
127300	LA, Workers' Compensation	Local assistance piece of above allocated to the County's District Attorney.
127400 00	LA, Fraud Auto (\$1.00 & \$0.50)	
127400 00	LA, Fraud Auto (\$1.00)	
127400 50	LA, Fraud Auto (\$.50)	
127500 20	LA, Fraud Health Assessment (\$0.10)	

California Department of Insurance

Revenues

CALIFORNIA DEPARTMENT OF INSURANCE

General Fund Tax Collection Program Funding History & Program Statistics

➤ This General Fund tax collection program performs tax collection, accounting, and tax audits of insurance companies and surplus line brokers. The program staff audits insurers' tax returns to determine compliance with the laws contained in both the California Insurance and Revenue and Taxation Codes and assists the Board of Equalization and the State Controller's Office with various refund, assessment, and accounting matters relative to the premium taxpayers. Tax collections from this program are deposited in the State General Fund.

➤ Pursuant to Part 7 of Division 2 of the Revenue and Taxation Code, the CDI is authorized to collect state business taxes from insurance companies that, in turn, are directly deposited into the State General Fund for support of statewide General Fund Programs.

➤ In FY 2002-03, funding for CDI's General Fund Tax Collection Program was shifted from the General Fund to the CDI's Special Fund.

	ACTUAL				PROJECTED
Fiscal Year	2005-06	2006-07	2007-08	2008-09	2009-10
Funding	\$1,736 M	\$1,925 M	\$1,986 M	\$1,889 M	\$1,843 M
Positions	16.0	13.8	13.5	14.8	15.0
General Fund Collections	\$2,124 Billion	\$2,167 Billion	\$2,166 Billion	\$2,104 Billion	\$2,104 Billion

CALIFORNIA DEPARTMENT OF INSURANCE

FY 2009-10 Fund Condition Statement

Revenue Type	Beginning Balance	Revenues	Projected Expenditures	Ending Balance	Reserve Percentage (Expenditures)
Restricted					
AB 1183 (\$0.30)	9,406	8,772	7,077	11,101	
Examinations	-1,369	22,610	21,221	0	
Proposition 103	6,249	22,090	26,613	2,726	
Workers' Compensation	2,319	20,075	17,644	4,750	
W/C Fraud Study	-	-	-	-	
Fraud, General ¹⁾	5,504	3,171	2,134	6,541	
Fraud, Health Assessment (\$0.10)	-	1,584	1,553	-69	
Fraud Auto (\$1.00 & \$0.50)	-	17,366	19,270	-1,904	
Seismic Safety	378	1,309	(1,309)	378	
Life & Annuity	-	493	657	-164	
LA, Life/Annuity (Investigation)	1,869	1,243	1,500	1,612	
LA, Workers' Compensation	255	30,228	30,228	255	
LA, Fraud Auto (\$1.00 & \$0.50)	9,507	20,380	25,601	4,286	
LA Fraud Auto (\$1.00)	8,179	14,167	17,554	2,792	
LA Fraud Auto (\$0.50)	3,328	6,213	8,047	1,494	
LA, Fraud Health Assessment (\$0.10)	-7	1,574	1,712	-145	
Sub Total, Restricted	34,091	150,895	154,310	29,367	19%
Unrestricted					
Fees and Licenses	23,563	57,521	56,594	24,490	
Sub-Total, Unrestricted	23,563	57,521	56,594	24,490	43%
Grand Total ²⁾	57,654	208,416	210,904	53,857	26%

1) Fraud General revenue supplements Fraud auto expenditures

2) Revenue will be augmented by available beginning balances to fully fund projected expenditures

CALIFORNIA DEPARTMENT OF INSURANCE
FY 2009-10 Budget Reductions
\$22,337
(\$ in thousands)

Background:

- CDI's Proposed FY 09/10 State Operations Budget was \$174.2M
- Feb. 2009 10% Gov's veto reduced budget by \$17.4M (\$13.5M achieved through Business Process Survey)
- September 2009 reduction of \$4.9M for Control Section 3.90 (i.e. furlough savings)
- Revised FY 09/10 Budget Appropriation is \$151.9M
- Which is \$6.3M less than FY 05/06

Summary:

Proposed 09/10 Governor's Budget	\$174,200,000	
Less: 10% Governor's Veto	<u>17,420,000</u>	(3.6 Furlough Days)
FY 09/10 Budget Act	156,780,000	
Less: C.S. 3.90	<u>4,917,000</u>	(1.0 Furlough Day)
Revised FY 09/10 Budget Appropriation	\$151,863,000	
Total CDI Reduction	\$22,337,000	(4.6 Furlough Days)