
SENATE COMMITTEE ON INSURANCE

Senator Susan Rubio, Chair

2021 - 2022 Regular

Bill No:	AB 1681	Hearing Date:	June 22, 2022
Author:	Daly		
Version:	June 2, 2022 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Erin Ryan		

SUBJECT: Insurance: fraud prevention and detection

DIGEST: Would expand the authority of the Insurance Commissioner (IC) and district attorneys to convene meetings with insurance companies or representatives of self-insured employers to discuss specific information concerning acts of suspected, anticipated or completed acts of insurance fraud, as specified.

ANALYSIS:

Existing law:

- 1) Authorizes the IC or their designated deputy commissioner to convene meetings with insurance companies to discuss specific information concerning acts of suspected, anticipated or completed acts of insurance fraud.
- 2) Protects a person sharing information concerning suspected acts of insurance fraud from civil liability for libel, slander or other relevant cause of action if the IC or their designated deputy are present at the meeting, as specified, and if there is no fraud or malice on the part of the participants.

This bill:

- 1) Would authorize the IC or their designated deputy commissioner to convene meetings with insurance companies or representatives of self-insured employers to discuss specific information concerning acts of suspected, anticipated or completed acts of insurance fraud.
- 2) Would also authorize a district attorney to convene such a meeting, but would require the IC, their designated deputy commissioner, or designated employees of the CDI's Fraud or Legal division to attend the meeting
- 3) Protects a person sharing information concerning suspected acts of insurance fraud in a meeting convened by a district attorney from civil liability for libel, slander or other relevant cause of action if the IC or their designated deputy commissioner, or designated employees of the California Department of Insurance (CDI) Fraud or Legal Division are present at the meeting, as specified, and if there is no fraud or malice on the part of the participants.
- 4) If the IC reasonably believes or knows that a fraudulent claim is being made based on information obtained at a meeting described in #1 or #2 above, allows the IC to

share the information with any district attorney with whom the CDI has entered into a written agreement for the investigation and prosecution of insurance fraud.

- 5) Makes specific legislative findings regarding the problem of insurance fraud in the state, that insurance fraud causes higher insurance premiums for consumers and self-insured employers and higher taxes for public entities, that the IC has publicly called upon insurers, self-insured employers, and public entities to more proactively investigate and fight insurance fraud.

Background

According to the Author:

California faces rampant insurance fraud amounting to billions of dollars a year. According to the Insurance Commissioner, it is estimated that workers' compensation fraud alone costs the state between \$1 billion to \$3 billion per year. Insurance fraud results in higher insurance premiums, higher taxes, higher prices and lower levels of government services, especially when those being defrauded are self-insured municipalities.

For workers' compensation, an important tool to combat fraud is the investigative debriefings allowed under the Insurance Code. These debriefings permit the Department of Insurance fraud investigators to meet with groups of insurers to identify and share fraud trends in the state while protecting these discussions from civil liability.

This statutory tool, however, has critical limitations. It does not permit self-insured employers to join these debriefings or district attorneys to hold them. Self-insureds represent nearly one-third of the workers' compensation market and are an essential partner for identifying fraud throughout the system. Likewise, district attorneys are also on the front lines of investigating and prosecuting fraudsters and need the same tools as the Department of Insurance investigators.

AB 1681 eliminates these limitations by simply expanding the current debriefing rules to permit self-insured employers to join and district attorneys to hold meetings.

The powers ascribed to the Commissioner to convene investigative debriefings are limited to insurance companies, and do not allow the Commissioner to include self-insured employers in such discussions. Self-insured employers throughout the state include most cities and counties. Self-insured employers do not have the financial buffer of an insurer when they are the direct victims of fraud, and have added incentives to actively investigate, identify and fight insurance fraud. Additionally, self-insured employers are in no position to see the greater fraud schemes impacting the industry, or to identify and extrapolate major fraud schemes based only on the claims they see. This is especially true as it applies to workers' compensation insurance and potential fraud.

CDI partners with district attorneys to fight insurance fraud in the state and district attorneys bring the majority of insurance fraud prosecutions in the state. In 2021, CDI requested to augment its local assistance expenditure authority for the purpose of

distributing additional funds to local district attorneys to prosecute automobile and workers' compensation insurance fraud. By allowing district attorneys to convene investigative debriefings and work with insurance companies and self-insured employers, proponents believe this bill could help catch and prevent fraud before it escalates.

Related/Prior Legislation

SB 156 (Wright, Chapter 305, Statutes of 2010) allowed the Commissioner to convene insurance fraud investigative debriefings, but it does not permit self-insured employers to participate.

ARGUMENT IN SUPPORT:

American Property Casualty Insurance Association (APCIA), the sponsor of this bill, says this bill is needed to fight insurance fraud in the state. APCIA notes that fraud tends to be regional in nature, and therefore authorizing local district attorneys to convene investigative debriefings with insurers as well as local employers and public entities in the region is expected to multiply and enhance anti-fraud investigation and prosecutions.

SUPPORT:

- American Property Casualty Insurance Association (Sponsor)
- California Coalition on Workers Compensation (Sponsor)
- Association of California Healthcare Districts
- Association of Claims Professionals
- California Association of Joint Powers Authorities
- California Grocers Association
- California Special Districts Association
- California State Association of Counties
- Civil Justice Association of California
- Housing Contractors of California
- National Insurance Crime Bureau
- Orange County District Attorney
- Public Risk Innovation, Solutions, and Management
- Rural County Representatives of California
- San Diego County District Attorney's Office
- Urban Counties of California

OPPOSITION:

None received