

AMENDED IN SENATE JULY 8, 1998
AMENDED IN SENATE JUNE 25, 1998
AMENDED IN ASSEMBLY APRIL 28, 1998
AMENDED IN ASSEMBLY APRIL 20, 1998
AMENDED IN ASSEMBLY APRIL 2, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 2732

Introduced by Assembly Member Miller

February 23, 1998

An act to amend Section 1857 of the Insurance Code, relating to insurance records.

LEGISLATIVE COUNSEL'S DIGEST

AB 2732, as amended, Miller. Insurance records: data advisory committees.

Existing law requires every insurer, rating organization, or advisory organization, and every group, association, or other organization of insurers which engage in joint underwriting or joint reinsurance to maintain certain specified records and information relevant to their operations and the operations of their members. Existing law requires that these records and information be made available to the Insurance Commissioner at all reasonable times for specified purposes.

This bill would delete rating organizations from the scope of those requirements and would establish data advisory committees to assist the commissioner; in making special calls

~~or in establishing statistical plans~~ for one or more lines or types of insurance, *and* to make available records required to be maintained by insurers or advisory organizations. The advisory committees would be comprised of certain specified members and would be required to review all proposed industrywide requests for records and information by the commissioner, and, within 10 business days after receipt of each proposal, authorized to advise the commissioner as to certain specified factors relating to the cost effectiveness and feasibility of the proposal. *This bill would authorize individual members to provide their own advice if the committee is unable to reach unanimous agreement in this regard.*

This bill would also authorize an insurer to fulfill its recordkeeping and reporting requirements under these provisions by reporting required records to an advisory organization, as specified, but would prohibit the recipient advisory organization from providing an individual insurer's information to another insurer, person, or organization, subject to certain exceptions.

Existing law governing rates and rating and other organizations makes it a crime to willfully violate any of its provisions. By adding a new prohibition within these provisions with regard to the provision of individual insurer's information by advisory organizations, this bill would expand the scope of an existing crime, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1857 of the Insurance Code is
2 amended to read:



1 1857. (a) Every insurer or advisory organization and
2 every group, association, or other organization of insurers
3 that engages in joint underwriting or joint reinsurance
4 shall maintain reasonable records, of the type and kind
5 reasonably adapted to its method of operation, of its
6 experience or the experience of its members and of the
7 data, statistics, or information collected or used by it in
8 connection with the rates, rating plans, rating systems,
9 underwriting rules, policy or bond forms, surveys, or
10 inspections made or used by it so that those records will
11 be available at all reasonable times to enable the
12 commissioner to determine whether that organization,
13 insurer, group, or association, and, in the case of an
14 insurer, every rate, rating plan, and rating system made
15 or used by it, complies with the provisions of this chapter
16 applicable to it. The maintenance of those records in the
17 office of an organization of which an insurer is a member
18 or subscriber shall be sufficient compliance with this
19 section for any insurer maintaining membership or
20 subscribership in that organization, to the extent that the
21 insurer uses the rating plans, rating systems, or
22 underwriting rules of that organization. The records shall
23 be maintained in an office within this state or shall be
24 made available for examination or inspection within this
25 state by the commissioner at any time upon reasonable
26 notice.

27 (b) There are established data advisory committees to
28 assist the commissioner in making special calls ~~or in~~
29 ~~establishing statistical plans~~ for one or more lines or types
30 of insurance *and* to make available the types of reasonable
31 records that subdivision (a) requires insurers, and
32 advisory organizations to maintain and make available.
33 No advisory committee shall have any authority to veto,
34 amend, or alter any request for the reporting of records
35 or information by the commissioner, but shall only
36 provide advice to the commissioner relative to methods
37 and efficiency in the collection of records and
38 information as set forth in subdivision (c).

39 (c) Each advisory committee shall review all proposed
40 industrywide requests for records and information by the



1 commissioner at least one time but shall not review
2 substantially the same request made on a recurring or ad
3 hoc basis in the future; and no later than 10 business days
4 after receipt of each proposal may advise the
5 commissioner as to both of the following:

6 (1) Whether the desired records and information are
7 already available in other forms or are being maintained
8 by one or more insurance advisory organizations that may
9 be able to provide the records and information to the
10 commissioner on a more efficient and cost-effective basis.

11 (2) Whether the format and contents of the proposal
12 are likely to elicit useful information and make
13 recommendations as to changes in the format or contents
14 of the proposal.

15 *If the advisory committee cannot reach unanimous*
16 *agreement on its advice to the commissioner, any*
17 *member may provide his or her own advice. Any written*
18 *advice to the commissioner by the advisory committee*
19 *and by individual members shall be submitted*
20 *simultaneously.*

21 (d) Each advisory committee shall consist of the
22 following members:

23 (1) The commissioner or his or her representative.

24 (2) A representative of the department's statistical
25 unit.

26 (3) No more than three representatives from advisory
27 organizations operating under this article that maintain
28 insurer records for the lines or types of insurance that are
29 the subject of the call ~~or statistical plan~~.

30 (4) Three representatives from various sized insurers
31 chosen by the commissioner that underwrite diverse risks
32 for the lines or types of insurance that are subject to the
33 call ~~or statistical plan~~.

34 (5) ~~A qualified consumer representative~~ *At least one*
35 *but not more than two qualified consumer*
36 *representatives chosen by the commissioner. As used in*
37 *this section, "qualified consumer representative" means*
38 *a person who has experience with the collection, use, and*
39 *analysis of insurance data and who can show that he or she*
40 *represents the interests of consumers as demonstrated*



1 *by, but not limited to, a history of that type of*
2 *representation in administrative, legislative, or judicial*
3 *proceedings.*

4 *Any group, association, or insurer that represents*
5 *persons described in paragraphs (1) to (5), inclusive, may*
6 *submit to the commissioner the names of those persons*
7 *for consideration of appointment to the advisory*
8 *committee.*

9 (e) Each advisory committee shall meet
10 telephonically. Members of an advisory committee shall
11 receive no compensation.

12 (f) An insurer may fulfill any obligation to maintain,
13 record, or report information under Article 6.5
14 (commencing with Section 1857.7) by reporting records
15 required by subdivision (a) to an advisory organization
16 that maintains the insurer's records with those records of
17 other insurers and reports the aggregate records of
18 insurers to the department according to reasonable
19 schedules approved by the commissioner. The aggregate
20 reports shall be made available by the commissioner for
21 public inspection at the department, but shall not disclose
22 the information of an individual insured, insurer, or
23 insurer group.

24 (g) Upon a request made *by any person to the*
25 *commissioner* in conjunction with an insurer's pending
26 rate application, the advisory organization shall, *within*
27 *five business days*, send to the commissioner the
28 information in its possession regarding the individual
29 insurer that Article 6.5 (commencing with Section
30 1857.7) specifically requires to be submitted with those
31 filings. *The information sent to the commissioner under*
32 *this subdivision shall be available for public inspection at*
33 *the department.*

34 (h) Except as otherwise permitted or required by this
35 section, no advisory organization shall provide an
36 individual insurer's information to any other insurer,
37 person, or organization, other than rates, rating systems,
38 and rating plans that have been filed with the
39 commissioner and are available for public inspection at
40 the department.



1 (i) The commissioner may adopt rules necessary to
2 implement this section.

3 (j) Nothing in subdivisions (b) ~~through (i)~~ to (i),
4 *inclusive*, shall be construed to affect ~~either~~ any of the
5 following:

6 (1) Any authority granted to the commissioner under
7 this code to obtain aggregate or individual insurer *data or*
8 *policy* records from advisory organizations or insurers.

9 (2) Any industrywide data reporting requirements
10 and standards that might exist in this chapter.

11 (3) *The right of any person under any provision of this*
12 *code, including under Section 1861.07, to obtain and*
13 *inspect at the department the aggregate or individual*
14 *records of insurers maintained by advisory organizations.*

15 SEC. 2. No reimbursement is required by this act
16 pursuant to Section 6 of Article XIII B of the California
17 Constitution because the only costs that may be incurred
18 by a local agency or school district will be incurred
19 because this act creates a new crime or infraction,
20 eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section
22 17556 of the Government Code, or changes the definition
23 of a crime within the meaning of Section 6 of Article
24 XIII B of the California Constitution.

25 Notwithstanding Section 17580 of the Government
26 Code, unless otherwise specified, the provisions of this act
27 shall become operative on the same date that the act
28 takes effect pursuant to the California Constitution.

