



# Personal Insurance Federation of California

California's Personal Lines Trade Association

REPRESENTING THE LEADING AUTOMOBILE AND HOMEOWNERS INSURERS

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## MEMORANDUM

Date: June 18, 2004

To: The Honorable Juan Vargas, Chair  
Members, Assembly Insurance Committee

From: Dan C. Dunmoyer, President  
G. Diane Colborn, Vice President of Legislative and Regulatory Affairs  
Michael A. Gunning, Senior Legislative Advocate  
Michael A. Paiva, Senior Legislative Advocate

RE: SB 574 (Alpert): Special Excess Workers' Compensation Policies and CIGA  
Assembly Insurance Committee Hearing: June 23, 2004  
**PIFC Position: Oppose As Amended June 15, 2004**

The Personal Insurance Federation of California, representing insurers who write over 50% of the personal lines insurance policies sold in California **opposes SB 574** authored by Senator Alpert.

SB 574, as amended on June 15, 2004, would require that the California Insurance Guarantee Association (CIGA) advance \$8 million to 67 school districts that purchased loss portfolio transfer insurance from Fremont Insurance Company during the 1990s. Although the bill provides that this loan would be repaid from the proceeds of a June 2, 2004 suit filed against Fremont General, the parent company of the now insolvent Fremont Insurance Company, no one can be assured that any money will ever be collected on this suit. In the event that the districts are unable to collect on the aforementioned suit, the districts would be obligated to repay the amount of the loan, excluding interest. In addition, the amendments preserve the right of the school districts to sue CIGA for having denied coverage to the districts, thus exposing CIGA to liability that it rightfully should not have to bear.

Although the goal of addressing the financial calamity that befell a number of school districts appears to be a noble idea, SB 574 fails to recognize that, if enacted, it will add an additional financial burden on an already precarious entity (CIGA) that is currently \$3.9 billion in debt with the debt potentially growing. The bill also fails to acknowledge that the school districts did not comply with then applicable labor code provisions and that they were never assessed a surcharge.

CIGA is the financial backstop consumers rely on to make sure that all of their claims are paid in the event that their insurance company goes bankrupt. As it relates to workers' compensation insurance, CIGA is the backstop for both the employer and the injured worker and "guarantees" the payment of the injured workers' claim. If CIGA cannot meet its financial obligations, the state's injured workers are left to collect their workers' compensation insurance from their employer. If the employer cannot pay for these damages (and most small business could not), the employer will go bankrupt and the injured worker will get nothing.

Finally, there are other insurance mechanisms, including Errors and Omissions coverage, that school districts should first explore for a financial remedy before turning to the already precariously balanced CIGA fund. Both the legal argument postulated as to why this measure is needed as well as existing insurance protection mechanism need to be exhausted before an alternative funding source should be considered. Even with this said, if these other avenues prove inadequate this is an issue that needs to be resolved through the General Fund and not through the CIGA mechanism which cannot withstand such obligations and still meet its current obligations.

For the reasons stated above **PIFC opposes SB 574 and urges your no vote on this measure.** If you have any questions regarding this position please contact Mike Paiva at (916) 442-6646.

cc: Senator Alpert, Author  
Mark Sektnan, Assembly Insurance Committee  
Kevin Hanley, Assembly Republican Caucus

Cynthia Bryant, Office of the Governor  
Scott Reid, Office of the Insurance Advisor