

# Brazen Defiance of the People's Law

## Insurers Gloat as Gillespie Derails Auto Insurance Rollbacks

By HARVEY ROSENFELD

When California voters finally took matters into their own hands and enacted Proposition 103, they had the right to expect that state officials would faithfully execute the new law.

Unfortunately, Insurance Commissioner Roxani Gillespie doesn't appreciate this principle of democracy.

Instead of embracing Proposition 103, which she initially opposed, Gillespie has used her official position to betray the voters and subvert the initiative with needless delays, biased decision-making and blatant violations of the law. Gillespie's post-election campaign against Proposition 103, culminating in last week's outrageous decision to exempt the vast majority of insurance companies from the initiative's rollbacks, goes beyond partisan politics. It is a brazen act of defiance.

**The 20% rollback**—Proposition 103 requires all auto, homeowner and business insurance companies to cut premiums by 20% of November, 1987, levels unless—by opening up their books at a public hearing—the firms can prove that the rollbacks would deny them a "fair rate of return."

Last week, Gillespie officially exempted 184 insurance companies from the rollbacks. There were no hearings, no cross-examination of company executives, no opportunity for consumer advocates to intervene.

Gillespie also announced that she would have excused another 219 companies—including State Farm, Farmers, the Auto Club and Mercury, which account for more than 40% of all auto insurance sold in California—if Atty. Gen. John K. Van de Kamp and Board of Equalization member Conway Collis had not disputed the exemption applications filed by these companies. Gillespie said she'd get around to hearings for these companies within 10 years.

Most of these firms could easily afford the rollbacks. But in conducting her private evaluations of the insurers' exemption applications, Gillespie relied on the companies' own self-serving and phony financial data. Insurance companies are legendary for their ability to "cook the books" to show that they are losing money; indeed, Gillespie herself admitted that the insurers had submitted "biased" data. But that didn't stop her from using it.

For example, Gillespie ignored the well-documented fact that insurers routinely pad their losses by inflating estimates of how much money they need to set aside in reserve to pay future claims.

A recent study by Voter Revolt shows that since 1984, the four largest California-based auto insurers inflated their reserves by 157% while actual loss payments grew only 69%. If reserves had tracked loss payments, as they should have, the companies could have refunded policyholders between 24% and 33% of premiums paid in 1988—and still reported the same profits.

Similarly, the commissioner has refused to review executive salaries, the enormous political advertising and the staggering overhead expenses that eat up 38 cents of every dollar of auto premiums we pay (see chart). Banks, by contrast, spend only 5 cents on the dollar for overhead. Simply holding insurers to the standards set by more efficient companies, such as USAA, would result in a 19.1% average rollback for the industry.

Instead, Gillespie simply calculated

whether or not each company's earnings, as reported by the company last year, were greater than the industry average. Only the insurers who gouged us more than the average insurance company are required to roll back their rates!

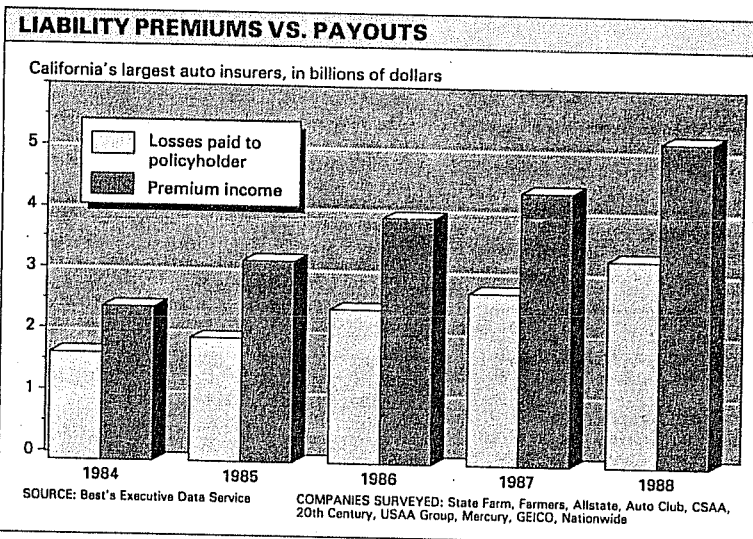
By denying repeated requests for a hearing on her calculations, Gillespie has made sure consumers have no way to challenge this faulty and biased approach.

**Territorial rating**—Before Proposition 103, insurers based auto rates primarily on a motorist's postal zip code, forcing good drivers to pay part of the losses of bad drivers who reside in the same neighborhood. Proposition 103 ends this arbitrary and discriminatory system.

Beginning in November, drivers will be rewarded with lower rates based on driving record, annual mileage and years behind the wheel. Consistently good drivers will get a permanent 20% discount. Thus, premiums will depend primarily on factors within a driver's own control, rather than

**Other reforms**—In addition to its rate rollbacks and reductions for good drivers, Proposition 103 contains 11 other provisions to help reduce rates in the future. They include the right of all good drivers to obtain insurance from the company of their choice (this should clear out the present assigned risk plan); a prohibition against arbitrary cancellations; repeal of the industry's exemption from the anti-monopoly laws; authority for consumers to negotiate discounts from insurance agents and group insurance plans for their neighborhoods and clubs, and publication of a comparison shopping guide for insurance rates. Gillespie has done little or nothing to enforce these new laws or inform the public about them.

While infuriated voters seethe at their betrayal, insurers gloat—and continue to boost rates. Another example of insurance industry stupidity? Only partly. Delaying the benefits of Proposition 103 helps the insurers discredit the measure here in



on arbitrary lines drawn by the post office. Proposition 103 allows insurers to consider other factors—including geographic differences—but only if justified by the companies and approved by the insurance commissioner after public hearings.

Most insurers have refused to provide the statistical analysis required by Proposition 103 to justify the use of geography. Instead, a parade of industry lobbyists appeared at public hearings two weeks ago to argue that the commissioner should ignore Proposition 103 and allow them to continue to engage in territorial rating.

Their arguments got a big boost from Gillespie herself, who before the hearings obligingly published a "study" contending that rates will go up everywhere but Southern California if insurers are forced to de-emphasize territorial rating. Gillespie conveniently failed to reveal that her study did not include motorists' driving records, annual mileage or driving experience, as Proposition 103 requires. Instead, Gillespie converted the state into one giant zip code where good drivers everywhere would continue to pay the same basic rate as poor drivers. Not surprisingly, people in most counties would see an increase over their present rates.

California and discourage the rate rebellions ignited by it in 35 other states.

But consumers are no longer at the unchecked mercy of insurers. Proposition 103 is written to allow consumers to obtain rapid court action to overturn improper or biased actions by the commissioner. Voter Revolt is preparing such a challenge.

And, of course, the initiative allows the voters to elect Gillespie's replacement in November, 1990, ensuring that the next commissioner will be accountable solely to the public interest, not to the insurance companies and their political allies.

Finally, public outrage over auto insurers' failure to obey Proposition 103 could cost them the privilege of doing business in California. Many citizens are already discussing the establishment of a nonprofit, cooperatively owned Consumers Insurance Company to replace the private auto insurance companies. This would be similar to a system that has been successful in Canada. If, as the companies say, auto insurance is a losing proposition for them, then they shouldn't mind if the voters relieve them of the burden of selling it.

Harvey Rosenfeld is chairman of Voter Revolt, which sponsored Proposition 103.