

Hello to no-fault, but then it's goodbye to 103

Harvey Rosenfield is the author of Proposition 103 and chairman of the citizen group Voter Revolt.

By Harvey Rosenfield

QUESTION: WHAT is the insurance industry's favorite kind of no-fault: (a) no-fault that will cover \$50,000 worth of medical bills; (b) no-fault that will cover \$15,000 worth of medical bills; (c) any kind of no-fault it can get; (d) all of the above.

The correct answer is (d). The insurance companies are desperate for no-fault because it would enable them to escape Proposition 103's rate reductions and regulations. No-fault would substitute a brand-new kind of auto insurance system, with no actuarial history in this state, for the wasteful and discriminatory golden goose that Proposition 103 was designed to reform. Thus, just when the insurance companies were finally forced to open their financial books to public scrutiny, the pages would be blank.

Barely two months after California voters vanquished no-fault by a 3 to 1 margin, it was resurrected in the state Legislature by Patrick Johnston, D-Stockton, chair of the Assembly Finance and Insurance Committee. Last fall, Johnston spent \$123,000 of his campaign kitty attacking Proposition 103 — as well as the other doomed insurance initiatives.

Loosely based on New York's no-fault law, Johnston's AB 354 originally offered up to \$50,000 worth of coverage for medical bills and lost wages to auto accident victims. In exchange, victims of all but the most serious accidents would be denied their right to sue or receive pain-and-suffering compensation for their injuries. Under this scheme, wrongdoer and innocent victim would be treated alike. Worse yet, the \$50,000 benefits' package clearly would have increased insurance rates in California.

NEVERTHELESS, AB354 squeaked out of Johnston's committee — thanks largely to the support of

Consumers Union, which historically has supported the no-fault concept. The organization's support for AB354 gave grinning pro-

industry legislators "consumer cover" as they voted for the bill.

However, it soon became clear that enacting a more expensive insurance policy would generate substantial public opposition. So Johnston, the industry and Consumers Union slammed no-fault into reverse and came up with the latest in no-fault fads — "no-frills."

The no-frills version of AB354 is the intellectual and moral antithesis of the high-coverage no-fault systems of New York and Michigan, which offer unlimited medical benefits and which no-fault proponents used to hold up as a model. Under Johnston's revamped bill, every motorist in the state would be required to purchase a no-fault policy that supplies a woefully inadequate \$15,000 worth of medical benefits and lost wages. It would cover neither property damage nor most physical pain and suffering.

It would, however, be cheap. Insurers promise to sell the policy for \$180 — for the first year and a half. After that, it's anyone's guess what the insurers will want to charge for it.

The idea has attracted the support of several organizations representing low-income groups. They believe that Proposition 103's rollbacks and its elimination of territorial discrimination against good drivers will not reduce rates enough to make insurance affordable to the very poor, who presently drive without insurance, risking hefty fines.

BUT WHILE AB354 is superficially enticing, it would require citizens to trade away their legal rights (the "frills"). The no-frills package may provide a much needed license to drive legally, but it is not an accident-compensation plan. The majority of motorists in the state will have to buy hundreds of dollars worth of additional coverage to fully protect themselves in case of their own accidents and to insure themselves against lawsuits by those whose low-cost, no-

frills policies don't cover their own medical costs. Though poor public policy, no-frills is good politics for industry lobbyists. It peels off portions of the urban coalition that originally supported Proposition 103. Otherwise, the cast of characters is predictable: Joining Johnston, Consumers Union and the industry is Insurance Commissioner Roxana Gillespie, who vigorously opposed Proposition 103. She has given AB354 the Deukmejian administration's blessing, referring to it as "her little tortilla."

A principle co-sponsor of AB354 is Assemblyman Richard Polanco, D-Los Angeles, who was the author of Proposition 101, a no-frills policy approach — bankrolled by a now-insolvent insurance company — that was also trashed by the voters, 9 to 1, last November.

The Legislature should not accept draconian solutions that the voters have rejected. There are alternative proposals that could be pursued to obtain further rate reductions, and which take advantage of the new regulatory environment enacted by 103.

Such reforms include strengthened auto- and highway-safety requirements to limit accidents; a speedy claims-resolution system similar to small claims court that obviates the need for lawsuits in most auto accidents, while preserving the victims' right to full compensation; and a lifeline policy for low-income consumers that does not restrict their rights.

UNDER SUCH a lifeline plan, the price of a minimum liability insurance policy could be lowered for those whose incomes are near the poverty level. In exchange, the requirement that all drivers carry insurance would be strengthened, reducing the number of uninsured drivers. For most California motorists, this would mean dramatic reductions in their uninsured-motorist coverage. A portion of these savings would be used to offset some of the costs of the lifeline policy.

This is a more humane and sensible approach to the problem than no-fault, preventing accidents and speeding the full compensation of accident victims.

None of these proposals can be implemented, of course, until the regulatory safeguards required by Proposition 103 are in full force. And consumers' best hope for short-term rate relief — Proposition 103's 20 percent rollback — lies in the hands of Insurance Commissioner Gillespie. Legislators truly concerned about lowering insurance rates should make the enforcement of Proposition 103 their first priority.

Special to The Bee