

F I N A L R E P O R T

CARRIER COMPETITION IN WORKERS' COMPENSATION INSURANCE STUDY COMMITTEE

January 1990

AUTHORIZATION AND APPOINTMENT

The Carrier Competition in Workers' Compensation Insurance Interim Study Committee was established by the Legislative Council with the following charge:

"Study the potential impact of the Insurance Commissioner's 'Open Competition' order on insurance rates, availability, and coverage offered in Iowa. Make recommendations on the advisability of implementation of this order."

The following members of the legislature served on the Study Committee:

Senator Alvin Miller, Co-chairperson
Representative Philip Brammer, Co-chairperson
Senator Thomas Mann
Senator John Peterson
Senator Dale Tiedan
Senator Ray Taylor
Representative Emil S. Pavich
Representative Kay Chapman
Representative Donald F. Hermann
Representative Ron J. Corbett

COMMITTEE PROCEEDINGS

The Study Committee was authorized two meeting days, with the final meeting date to be held no later than November 1, 1989. The Study Committee held its two authorized meetings on August 29, 1989 and October 26, 1989.

MEETING -- AUGUST 29, 1989

The first meeting of the Study Committee was held on August 29, 1989, in Senate Room 22, of the State Capitol. Presentations were made by several persons and groups whose interests were implicated by the Commissioner of Insurance's proposed order to implement carrier competition in workers' compensation insurance in place of the current pre-use rate approval and regulation by the Commissioner.

Commissioner of Insurance, William Hager was the first witness to appear before the Study Committee. The Commissioner presented information on workers' compensation insurance in Iowa and his proposed changes in rate regulation. In summary, the proposed rule would implement an open market or open competition for insurance carriers in setting workers' compensation insurance rates in place of the current pre-approved rate system, with minimal price competition for the average size employer. The Commissioner answered objections which had previously been raised in the public debate by certain employer groups, insurance companies, and others.

Larry Hochstetler, representing the National Council of Compensation Insurance (NCCI), the state's current insurance rating organization for workers' compensation insurance, described the NCCI's operation as a rating bureau and the current mechanism by which workers' compensation insurance rates are established in the state. Mr. Hochstetler emphasized that NCCI is an information source in setting rates, and it is not a lobbying agency. Mr. Hochstetler made no specific recommendation on the merits of open competition conceptually, but commented upon specific aspects an open rating plan should include if adopted.

Bernie Zlaznik, of the Iowa Insurance Institute, testified in favor of maintaining the current rate regulated system, and argued that if a change was to be made it should be adoption of the model workers' compensation insurance act.

Nancy Schroeder, testified on behalf of the Alliance of American Insurers. Ms. Schroeder stated that the Alliance does not necessarily disapprove of competitive marketing, but cautioned that a change from the current prior approval system should be closely reviewed as to market impact upon both consumers (employers) and insurers.

Eric Oxfeld, testified for the American Insurance Association, against the Commissioner's proposed plan, but not necessarily against open competition per se. The major objections to the Commissioner's proposal, shared with the Alliance of American Insurers, concerned the limited role permitted traditional rating bureaus in standard data collection, classification of uniform risk classes, publication of standard forms, and publication of advisory rates.

Ted Zylastra, appeared on behalf of Professional Insurance Agents, to oppose the proposed change. Mr. Zylastra testified that workers' compensation insurance is typically written on an accommodation basis as part of a total insurance package for a business, and that rate competition would not produce the Commissioner's purported benefits.

Gene Clay, representing the Independent Insurance Agents of Iowa, raised objections to the Commissioner's proposed order, but also stated his belief that Iowa would eventually adopt a competitive market approach.

Scott Weiser, of the Iowa Motor Truck Association, testified against the proposed change. Mr. Weiser advocated retention of the current preapproved rate system, which he believes benefits high risk employers like motor truckers and small business.

David Brasher of the National Federation of Independent Business testified that the current system is working well in delivering competitively low rates to Iowa businesses compared to other states. Mr. Brasher asserted that, contrary to the Commissioner's position, price competition does exist in the current system in the form of the permitted 15% differential from standard rates.

Jerry Wion, owner and operator of the TSC Driving Academy, reviewed workers' compensation rates in surrounding states in comparison to Iowa and indicated that Iowa has a relatively good benefit package for the rates offered, but warned that business was lost to lower cost states like Nebraska.

MEETING -- OCTOBER 26, 1989

The second and final meeting of the Study Committee was held on October 26, 1989, in Senate Room 22, of the State Capitol. Testimony was again received from invited witnesses and concerned persons.

Eric Nordman, Director of Property and Liability Section, of the Michigan Insurance Bureau described Michigan's conversion from a preapproved rate system to an open competition regime similar to that proposed by the Iowa Commissioner of Insurance. Mr. Nordman reported that open competition was generally credited with providing lower rates for Michigan employers than otherwise would have occurred during the past several years if the prior approval system had been maintained. He warned that adoption of open competition was unlikely to actually lower rates given the upward pressure of medical expenses, but rather predicted that open competition in Iowa would produce smaller rate increases than could be expected under rate regulation by prior approval.

Robert Heisler, of the Illinois Department of Insurance, described Illinois' experience with open competition in a plan similar to that outlined by Larry Hochstetler of NCCI at the first meeting. In Illinois, the rating bureau retained its central role, including publication of advisory rates, similar to that under the current Iowa preapproval system. Mr. Heisler testified that Illinois would do some things differently, especially with the risk pool participants, but that generally open competition was expected to deliver lower rates to the average Illinois employer.

Dennis Hogan, representing the Sheet Metal Contractors of Iowa, described some of the recent challenges to rates filed by workers' compensation insurers, and resultant rate roll backs ordered as the result of successful challenges by the Sheet Metal Contractors and

others. Hogan testified in favor of the Commissioner's proposed rule, stating that he believed it would result in lower and fairer rates for Iowa employers. He noted that risk pool participants, such as unrated small business or high risk employers like trucking companies, would be unaffected by the conversion, because under the Commissioner's proposed rule, the risk pool would continue in its current form.

Rich Hoffman, an actuary from Tillinghast, a Towers Perrin Company, who was retained by the Commissioner of Insurance to research and draft the proposed open competition rule, appeared to describe the history of the proposal and the actuarial basis of the proposed rule. Mr. Hoffman testified in support of open competition and the particular form of open competition contained in the proposed rule which Mr. Hoffman drafted on behalf of Commissioner Hager.

Commissioner Hager again appeared before the Committee in support of his proposed rule, but also to express his willingness to abide by any legislative recommendations for changes to the proposal, action, or inaction.

A panel of interested persons also appeared to respond to the comments and issues raised by previous witnesses before the Study Committee. The panel consisted of Jerome Scheible, of Wausau Insurance Companies, Larry Hochstetler of NCCI, David Brasher of NFIB, Dennis Hogan of the Sheet Metal Contractors of Iowa, Rich Hoffman of Tillinghast, and Terry Kraft of IMT Insurance.

Jerome Scheible, Vice President of Industry Affairs for Wausau Insurance Companies, testified against the Commissioner's proposed rule on the basis that Iowa's current system was working well and providing price competition to contain rates. Mr. Schieble objected to the limits on rating bureau practices contained in the proposed open competition rule especially.

Larry Hochstetler of NCCI added some comments on Iowa's current assigned risk plan or pool, and noted that it has recently been decreasing in size, and that even assigned risk pool participants had favorable rates compared to nationally with a price differential 20% above nonassigned risks.

David Brasher of the National Federation of Independent Business reiterated his belief that the current system is working and that the Commissioner of Insurance had not met his burden of proving that the current system should be changed.

Terry Kraft of IMT Insurance testified that IMT as a small workers' compensation insurer was not opposed in concept to open competition, but noted that the Iowa prior approval system has worked well to provide stable and accurate rates. He objected to the treatment of rating bureau's and limitations on the sharing of loss data, especially trending and manual rates with provisions for expenses and profitability classification. Mr. Kraft warned that

requiring each small company like IMT to develop its own rates would in fact reduce competition because of the expense involved in retaining individual actuaries to perform necessary duties currently performed by NCCI as the rating bureau for Iowa's workers' compensation insurance market.

Dennis Hogan of the Sheet Metal Contractors of Iowa, stated that the next insurance crises in Iowa would create demand for open competition, and that it would be better to try it now with an insurance commissioner generally credited by all sides with being exceptional and in a market not currently under substantial stress for purchasers or suppliers.

Rich Hoffman, of Tillinghast, urged the Study Committee not to reject the entire Commissioner's proposal, because even if there were small problems, they could be ironed out, and there were many good ideas that need to be implemented to assure the best rates for Iowa employers in the future.

RECOMMENDATIONS

The Committee after discussion made no recommendations. While no recommendations were formally made, the Commissioner of Insurance has since responded to the concerns raised by individual members of the Study Committee, the Governor's office, insurance companies, and certain employer groups in the state, by tabling the proposed open competition rule. The proposed rule has at this time been withdrawn from formal consideration and the current preapproved rate system for workers' compensation insurance will continue unless the legislature acts to change it. The Commissioner's now withdrawn proposed rule was based on permissive authority granted by the Legislature to permit open competition in "competitive lines" of insurance.