

Poizner rule changes criticized as a nod to insurance industry

Contra Costa Times

SACRAMENTO – Insurance Commissioner Steve Poizner rode to victory in 2006 partly on the effects of a TV ad ridiculing his opponent, Cruz Bustamante, for taking bagloads of cash from the industry he wanted to regulate.

Two years later, Poizner has held firm to his pledge to refuse insurance industry contributions, even as he lays the groundwork for what will be an expensive run for governor in 2010.

But critics are worried that Poizner, the independently wealthy Silicon Valley entrepreneur, is cozying up to the insurance industry in less blatant ways than a direct exchange of money. They suggest that Poizner has proposed a series of rule changes that will result in higher costs for homeowners and drivers — as a nod to the industry, and indirectly to build his alliances with the Republican Party, which relies heavily on contributions from insurers.

“His heart is in the right place, but his ideology and his political party is exerting a pull on him that’s leaving him in the middle between consumers and industry,” said Amy Bach, executive director of the San Francisco-based consumer advocacy group United Policyholders. “That may be where he wants to be, but I don’t think that’s where the public wants him to be.”

Rates will go “through the roof” if Poizner approves the regulations, which will likely face public hearings by late January, said Harvey Rosenfield, co-founder of Consumer Watchdog and the author of Proposition 103, a 1988 initiative considered to be the nation’s most

consumer-friendly system of rate regulation. “He’s begun to fundamentally dismantle the formula that’s limited the amount insurance companies can charge us and has produced \$62 billion in savings,” Rosenfield said. “It’s impossible to fathom how Poizner thinks this is a good idea politically except he does have to pay attention to the chamber of commerce lobbyists who are against all forms of regulation.” Poizner’s office defended the proposals, saying he’s trying to strike a balance between looking out for consumers’ interests and creating conditions for a fair and competitive marketplace.

“Since Commissioner Poizner took office, he’s taken his role as top consumer watchdog seriously,” said Darrell Ng, Poizner’s spokesman. “And because of that homeowners and auto rates have decreased by \$1.5 billion since January 2007. He’s demonstrated he fights for consumers, and still has two years to go.”

One change Poizner is seeking would allow insurance companies to offer rate reductions of up to 7 percent without having to open up their finances to the insurance commissioner. They would still be asked to open their books every three years to justify their rates, but in the interim would be able to determine their own rate cuts. Critics say nothing in the law compels Poizner to demand they open their books.

“Currently, companies are reluctant to come in at all in the interim because they’re worried they’d be forced to make large rate reductions,” Ng said. “So, they sit on their current rates or higher rates. Given the choice of somebody sitting on higher rates or making it easier for them to come in with lower rates, we’ll take the lower rates.”

But Rosenfield said it’s a scheme to allow insurance companies to avoid larger rate decreases required by law — and to avoid scrutiny of their finances.

Other proposed changes would:

Allow insurers to stretch rate cuts of less than 15 percent over two years rather than one — which Consumer Watchdog said will allow them to continue charging excessive rates.

Eliminate rules that limit how insurance companies project their claims payouts, which would allow them to increase rates based on inflated costs and expenses.

Increase the amount of non-loss expenses, such as executive salaries or advertising, that companies are allowed to pass through to customers.

Poizner issued a series of changes this year. Rosenfield said those regulations have raised auto insurance rates by \$26 million, and eight companies have applied for another \$300 million in increases to auto and homeowner coverages.

Poizner has angered critics by surrounding himself with insurance industry insiders. Poizner's first move was to hire former insurance industry lobbyist Bill Gausewitz as his special legal counsel for policy issues.

His chief of staff is Jim Richardson, who'd previously served as chief of staff for former Assembly GOP leader Jim Brulte, a consultant with California Strategies, whose client roster is known to include big-name insurance companies. Brulte, who co-headed Poizner's 2006 campaign and is leading his exploratory committee for governor, declined to comment for this story.

Poizner's staff counsel is Adam Cole, who previously was a partner at a major law firm that has long battled Proposition 103, though his own role was seeking claims against insurance companies.

Insurers have had their disagreements with Poizner. The Association of California Insurance Companies, for example, is suing the Department of Insurance to drop a rule that requires insurance companies to pay consumer groups for court costs when a requested hearing is canceled.

"We do not always agree with Commissioner Poizner," said Sam Sorich, president of the American Association of Insurance Companies, which represents 300 insurance companies in California. "It's a mistake to say he's been one-sided."

But critics say that Poizner has allowed his role as advocate for

consumers to be trumped by his devotion to the free market — and to the Republican Party. He has spent the past two years cultivating relationships with Republican activists in an attempt to overcome their reluctance to support an abortion rights candidate. Mollifying the pro-business wing of the party with a more lenient view toward the insurance industry, they said, could go a long way in pulling the party behind him for his gubernatorial race.

“I think he’s struggling with his own ideology; he has an inbred dislike of regulations,” Bach said. “That is proving to be a substantial challenge for him. I do think there will be political fallout for him if by the time he runs for re-election or for governor, the public perceives him to be in bed with industry and is rubber-stamping rate increases.”

Poizner has been helpful to homeowners victimized by wildfires, recovering more than \$10 million for wildfire victims in cases in which they were underinsured, and has kept his office open on weekends to help wildfire victims process their claims, Ng said.

Bach lauded Poizner for prodding insurance companies to agree to quickly advance claims money to fire victims. But she said he’s moving too slowly in providing help to fire victims who were underinsured.

Lt. Gov. John Garamendi, who served eight years as insurance commissioner, said his successor has an obligation to hold insurance companies accountable for any rate changes. Garamendi, a Democrat, is also running for governor, so the two could wind up as opponents in 2010.

“It’s failed leadership,” Garamendi said. “He’s failing to protect consumers. And he’ll be held accountable if he wants to play footsie with the insurance industry.”

“It’s a very difficult job fighting one of the strongest industries in America,” Garamendi added. “If you’re not willing to fight, they’ll roll right over you. If you’re not willing to fight for the consumer, you’re in the wrong business.”

Poizner may be showing a tin ear to the politics of the times, said San

Jose State political science professor Larry Gerston, which are demanding more government protection from private industries, not less. “This is a moment when people are very unhappy with the lack of oversight or regulation,” Gerston said. “Given this environment, it’s somewhat curious that he’d swim upstream and propose fewer regulations.”