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Bill would open CIGA meetings--partly

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SACRAMENTO - At first, it seemed like a decent victory.

Two months after I was thrown out of a meeting of the California Insurance Guarantee Association, state Sen. Mike Machado introduced a bill last week to make CIGA meetings open to the public.

Finally, it seemed, something might be done about this troubling organization.

Then I learned more about the proposal.

Senate Bill 1467 explicitly states that "All meetings of the board of governors of the association and its investment and audit committees shall be open and public," but it also includes two key loopholes to allow for secret meetings about some of the very problems plaguing CIGA.

Machado's bill permits CIGA leadership to meet in private when it discusses "bond issuances or other matters relating to the borrowings of the association" as well as purportedly confidential contracts with claims adjusting companies.

You'll recall, I first wrote about CIGA when an independent audit suggested gross mismanagement within the organization. The quasi-governmental agency, which picks up insurance claims if your carrier goes broke, is \$1.6 billion in the red.

The debt stems from large sums borrowed by floating bonds, but the audit found also found CIGA grossly overspends on the claims adjusters it hires. In one category alone, it found \$55 million of \$66 million was misspent.

So bonds and claims adjusters are two topics in need of public scrutiny. But SB 1467 specifically exempts them.

"Good grief," said Dan Jacobson, an Orange County attorney who sits on the CIGA board. "I'm glad he introduced the bill, but it enshrines in the law that the board can hold secret meetings on those two very important issues."

Jacobson and former board member Steve Testan first sounded the alarm about CIGA late last year, when they notified Orange County Sen. Lou Correa and several other elected officials about problems there.

Despite management's claim to the contrary, Jacobson and Testan believe CIGA's business should be open to the public because it was formed under legislation, board members are appointed by elected officials and it gets funding from assessments on insurance policies.

"With public money should come accountability," Testan said.

When I learned of the audit, I tried to attend a CIGA board meeting at the high-rise Bankers Club of San Francisco in February, but the executive director, Wayne Wilson, threw me out almost as soon as I walked in the door. He told me the meeting was private.

Last week, however, when I wrote a short story about Machado's bill, Wilson told me CIGA supports the proposal. When I asked why, Wilson specifically cited the provisions that allows for CIGA to still meet in private for some topics.

"We think that's a positive approach," he told me.

Said Jacobson: "Maybe CIGA management will be kinder to reporters who show up next time."

After I was thrown out in February, Correa pressed Machado to hold a hearing on CIGA, which he did. In March, several CIGA officials testified before the Senate Banking, Finance and Insurance Committee. Also present was John F. Williams, the author of the independent audit. Williams testified that his review, which was ordered by CIGA management, uncovered "illegal" acts.

Machado ended the hearing by asking CIGA to report back to the committee in 90 days on how it's addressed Williams report.

Insurance Commissioner Steve Poizner also confirmed this week that the California Department of Insurance is investigating CIGA and will propose changes to its plan of operations.

"This plan reflects CDI's intention to be more aggressive with its oversight of CIGA in light of recent assertions about management and internal control problems," said a press release. The investigation, however, won't be done for about six months.

Both the commissioner and Machado's plans call for the insurance department to be represented at CIGA meetings. SB 1467 also requires that CIGA meetings be announced at least 10 days in advance in the newspaper or on CIGA's Web site.

Jacobson, the Orange County board member, told me he "applauded" Machado's decision to introduce the bill and said he was pleased a hearing was held. But he said he's afraid the loopholes written into SB 1467 give CIGA exactly the cover it wants.

He said the public should be looking at CIGA's bonds. And the provision on claim adjuster contracts "purporting to bind the association" to confidentiality? Jacobson said that's a problem. Just because a contract "purports" to be confidential doesn't mean it actually is.

"You can purport to bind anyone to anything in a contract," he said. "The word 'purport' should be taken out because that just opens up a can of worms," he said.

Testan, the former board member, agrees.

"While I appreciate that both entities, the Department of Insurance and the Senate, are doing something," he said, "it doesn't appear that either are proceeding as thoroughly as I'd like to see."

SB 1467 sailed through a hearing in Machado's Senate Banking, Finance and Insurance Committee on Wednesday without anyone raising these issues. The only interesting thing I heard was that CIGA worked with Machado to draft the bill.

Afterwards, I asked Machado about the loopholes for bonds and claim adjuster contracts.

"I think that we need to be very careful about what is needed for them to operate and not compromise their ability to negotiate with those with whom they have services," he said.

"And I think the announcement that they have those meetings, even though it may not be open, does provide a certain element of scrutiny that comes to bare on them. That's not going to avoid the ability to have questions about what may have taken place."

Sen. Correa voted for the bill on Wednesday, but suggested that Machado add provisions on conflict of interest and best business practices. Correa called it a good start, but said more work needs to be done on CIGA.

"I have serious concerns with CIGA's operation," he said.

He's not the only one.

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