
FORTY-FIRST REPORT

For the Period

January 1, 1991 THROUGH DECEMBER 31, 1991

FISCAL YEAR ENDING AUGUST 31, 1992

and

MINUTES OF ANNUAL MEETING

AUSTIN, TEXAS

November 9, 1992

**FORTY-FIRST REPORT FOR THE PERIOD FROM JANUARY 1, 1991
THROUGH DECEMBER 31, 1991**

TEXAS AUTOMOBILE INSURANCE PLAN

Austin, Texas

November 9, 1992

The Forty-First Annual Meeting of the subscribers to the Texas Automobile Insurance Plan was held in the Austin Rooms at the Omni Hotel in Austin, Texas, beginning at 8:00 A.M., Tuesday, November 9, 1992.

The meeting was called to order by Chairman Awbrey who requested the Manager to read the Anti-Trust Statement. After the reading of this statement, the Chairman requested the Manager to read the call for the annual meeting. The motion was made and duly seconded to dispense with the reading of the call inasmuch as copies were mailed to Subscribers under date of October 9, 1992.

The first order of business was the reading of the minutes of the annual meeting held on November 5, 1991. Upon motion duly carried, the reading of those minutes was duly dispensed with inasmuch as copies had been sent to the subscribers and since no objection or corrections had been submitted, the minutes were approved as written.

ATTORNEYS' REPORT

Mr. Richard Geiger, Thompson, Coe, Cousins & Irons, Dallas, Texas, was introduced by Chairman Awbrey. Mr. Geiger reported as follows.

At last year's annual meeting, my report to you covered legislation affecting auto insurers. In that report I covered such things as the new statute on prompt payment of claims, amendments to the Deceptive Trade Practices Act and the other substantial changes made by HB2 and HB62.

Fortunately, there has not been a session of the legislature since our last annual meeting and there is no new legislation to report.

Even so, since the last annual meeting of subscribers, much has transpired and many changes affecting TAIP are still evolving. Whether the Plan of the future will be a mutation or an improved species won't be determined until the conclusion of the 1993 regular session of the legislature.

As I am sure both the Chairman and the Manager will report, and as you already know, the enforcement enhancements that were added to the Financial Responsibility Law have brought Plan assignments to unprecedented heights. This has brought the Plan and its operations to center stage in the political arena that has replaced fair and evenhanded insurance regulation. At the instigation of the Office of Public Insurance Counsel, efforts have been made to commandeer the Plan and to make it an instrument for experiments in social engineering.

This process began in January at the first ever State Board of Insurance hearing called for the express purpose of setting rates for the TAIP. The Plan actuary utilizing standard actuarial concepts showed a very substantial rate inadequacy and a need for a 47.4% rate increase to become effective on June 1, 1992. By contrast, the actuary engaged by the Office of Public Insurance counsel using a more conservative evaluation, showed a rate need to +27.6% when adjusted to a common date (June 1). However, the OPIC actuary interjected the red herring of "no priors" to divert the Board's attention from rate adequacy to "social justice". Instead of the 47.4% needed, the Board granted 4%.

The Office of Public Insurance counsel had also tried to inject into the rate hearing agenda consideration of its proposal to wrest control of the Governing Committee from the industry to be replaced by a Board with only nominal insurance industry participation. Because the Plan had objected to consideration of the rule changes in the context of a rate hearing, consideration of the rule changes was delayed until later.

Although the TAIP and its subscribers showed their willingness to reconfigure the Governing Committee to include six members to represent the public interest, including two agent representatives, the State Board of Insurance disapproved that proposal, and substituted its own whereby the industry would have a minority of the representatives of the Governing Committee although it would have 100% responsibility for assignments and assessments. This action by the Board was immediately challenged and enjoined.

The legislature will conduct its sunset review of the Texas Department of Insurance, the State Board of Insurance, and the Office of Public Insurance counsel in the regular session in 1993. As a prelude to that, the Sunset Advisory Commission staff has made its evaluation of those agencies and has also considered the governance of the TAIP under the supervision of the State Board of Insurance.

The staff has recommended to the Sunset Advisory Commission that the TAIP Governing Committee be reconstructed along the lines utilized for all other residual market mechanisms under House Bill 2. That is a Governing committee composed of five industry representative and four representative of the general public. Under the Sunset staff evaluation, agent representatives would be considered as representatives of the general public. The proposal calls for industry representatives to be selected by the industry itself while the representatives of the public would be selected by the State Board of Insurance on recommendations from OPIC with the two agent representatives to be selected by the Governor.

The increased activity of the Plan has made it necessary to conduct more frequent meetings of the Governing committee, the Executive committee, and the Operations Subcommittee. Much work has been done to improve the Plan of operation and much remains to be done. These activities are at a standstill pending the courts determination on authority of the Governing Committee and the authority of the State Board of Insurance which will be covered by the report from Ms. Pollard.

During 1992, the Governing committee engaged co-counsel. Our co-counsel handles presentations to the State Board of Insurance, including rate presentations and litigation matters. The firm of Thompson, Coe, continues as general counsel.

Our firm appreciates the opportunity to represent the Texas Automobile Insurance Plan. It is always a pleasure to work with the Governing Committee, the Executive Committee, the Manager, and his staff in providing needed legal services. Since the engagement of co-counsel, we have made every effort to assist them in the transition of responsibilities.

We hope that the services of Thompson, Coe, Cousins & Irons and its attorneys always meet the needs of TAIP for quality legal services.

Chairman Awbrey next introduced Phyllis Pollard, Scott, Douglass & Luton, Austin, Texas. Mrs. Pollard made the following remarks.

1992 has been an eventful year for the Texas Automobile Insurance Plan. I have only been involved with the Plan for the last six months. Those six months are perhaps the most eventful six of TAIP's forty year history.

In 1951, the legislature authorized insurance companies to create TAIP. The statute expressly stated the purpose of the Plan: to allocate applicants unable to obtain insurance in Texas through ordinary methods among the insurance companies authorized to write automobile insurance in Texas. The legislature specifically authorized insurance companies to establish rules and procedures to accomplish the purpose.

Things rocked along smoothly for forty years--until February of 1992. In February, OPIC challenged the control of TAIP. It asked the State Board of Insurance to change the Plan rules and procedures--without initiation or approval of the subscribers. The changes requested by OPIC included changes in the composition of the Governing committee and in the way the Plan rules were amended.

The Governing Committee had always been composed of insurance companies. The composition is appropriate--it is insurance companies which take the assignments, which provide the insurance, which fund the Plan, and do the work of the Plan.

OPIC wanted to change the membership of the Governing Committee to contain a majority of public members and wanted the State Board of Insurance to assert absolute authority over the rules of TAIP. TAIP countered with its own proposal. It suggested a Governing Committee made up of ten subscriber insurance companies and six public members. It also proposed that the amendment procedure for Plan rules be clarified to specifically state that any interested party could recommend changes to the TAIP rules, that those changes must be approved by TAIP, but that they would not become effective until the SBI approved the changes.

Over TAIP objections, the State Board of Insurance sided with OPIC. Relying on Article 1.35C of the Insurance Code, a statute required that at least 50% of the membership on advisory boards must be public members, the SBI ordered a Governing Committee composition of nine public members (two of which would be agents) and five insurers. The SBI deleted in its entirety the amendment provision in the Plan rules.

To support its position, the SBI requested and received an attorney general opinion. That opinion stated that TAIP's interpretation of its enabling statute was invalid. The attorney general opined that if TAIP were correct, the statute would be an unconstitutional delegation of legislative power to private parties and would deny citizens the right to petition their government.

The SBI's order was issued in July 1992. TAIP immediately filed suite. A temporary injunction prohibiting the implementation of the order was granted. TAIP, SBI, and OPIC all filed motions for summary judgment. Those motions were heard on September 10. Last Friday, November 6, 1992, the judge issued his ruling.

You have all probably heard the contents of that order. The court upheld TAIP's interpretation on all issues. The court rules that TAIP has power over its own rules, that its enabling statute is not unconstitutional, and that Article 1.35 C does not apply to TAIP.

The court's order confirmed the legislative intent. In 1951, the legislature had decided that a residual mechanism was necessary to enable persons unable to obtain insurance in the voluntary, competitive market to get insurance. The legislature left the mechanism alone for forty years. We have witnessed an apparent effort by the regulators and by OPIC to impose their own intent over the legislative intent. We are facing an effort to change the focus of TAIP from the legislative purpose of availability to one of affordability.

The question arising now is whether TAIP is to be a market of last resort or an alternative market, a subsidized market for those unable to afford insurance. If the answer is that the voluntary market is to subsidize high risk drivers insured through TAIP, agents will be facing awkward moments when they must explain to an application that her rates are high because she is a good driver.

Last month, steps were taken to implement the affordability focus. In October, the SBI voted to publish certain disclosure rules. One of those rules requires an agent to disclose TAIP's existence, availability, and rates if they are cheaper than the rates of insurance available to the applicant in the competitive market.

Speaking of rates moves me to the next area I am handling for TAIP. The rate hearing is scheduled for December 15. The last rate hearing was in February 1992. Stuart Awbrey and Dick Geiger will discuss what happened at that hearing. We are currently working to answer some of the questions raised by the regulators and by OPIC last February, including the question of percentage of priors versus no-priors in the Plan. We will have our actuarial recommendations and testimony and will present the best case possible to support adequate and reasonable rates for insurance offered through the Plan.

Scott, Douglass & Luton is happy to work with TAIP. We have found the Governing Committee and the Executive Committee to be effective and dedicated. In this coming year, TAIP will have to continue its efforts to be the mechanism the legislature intended to make insurance available to persons unable to obtain it by ordinary methods. Those efforts will have to focus in the legislature and with the regulators and hopefully, not anymore in the courthouse.

The reports of the Manager and the Chairman of the Governing Committee were then heard.

MANAGER'S REPORT

Welcome to the Forty-First Annual Meeting. With this being an election year, I am sure we have all heard more than our share of buzzwords and catch phrases. But I'm going to use one here anyway, because it so perfectly describes what we at the Plan are experiencing. And that is "growth and change". Over the past year, we have processed the highest volume of applications in our history and that volume continues to grow. To keep up with these numbers, we have had to change. Since we do not foresee a halt to this trend, it appears we will have to continue to change. Here are some of the figures.

In 1991 we processed 373,000 applications — over twice as many as we processed in 1990. Premium volume in 1991 was about \$232 million as opposed to \$113 million in 1990. Midway through 1992 the Plan had processed just short of 350,000 applications, again, almost doubling the number from the year before.

Naturally, these numbers called for some major changes. The question was what changes could we make that would allow for that tremendous volume without a drop in quality of service? First of all, we implemented a voice-response computer system November 1, 1991, and during that first month it handled more than 3,000 calls freeing staff and management for other projects. In January 1992, it took 10,200 calls. In June, just eight months after its inception, the voice response system received almost 10,000 calls, close to triple the number in the first month.

Another change has been an increase in staff. The Plan used to be a small office where four or five of us did everything. Our staff has been increased from 15 in 1990 to a peak of 80 in 1992. However, with more efficient processing methods, we have reduced staff to 61.

The staff increase included a new Customer Service Department consisting of seven employees who have taken over some of the correspondence, training and special projects. Each of them is also kept busy answering phones.

But we didn't stop with increase staff, we have also revamped the duties of certain positions. We have updated our computer program to automatically generate deficiency letters and the infamous go-back letters that were previously hand-written. Now our data entry personnel are trained to examine the applications as they key them in and enter a reject code that produces a particular letter. This saves us a number of steps and a tremendous amount of time per application.

As we continue to grow there are more changes on the horizon. In 1993, we will move into new office space designed to better handle our work-flow, again hopefully reducing staff and therefore expenses to the Plan. We will also be conducting ten agent's seminars throughout the state to increase agent and staff efficiency in processing applications.

Ladies and gentlemen, we may not have elected for the tremendous growth and change in the Plan. It has been, in a sense, forced upon us. Some of us old timers miss the family-like atmosphere of a small operation. But whether we wanted it or not, we ARE on top of it, and as long as we are flexible and anticipate the changes that is where we will remain.

To implement these changes has required hard work, strong cooperation, and my personal favorite buzzword "teamwork". In closing I would like to thank the Governing Committee, especially the Executive Committee, Plan attorneys, and Plan Staff for their continued support.

CHAIRMAN'S REPORT

The title of my report is – 1993: Year of Challenge and Decision.

While it is the chairman who presents this report, it is given on behalf of the Governing Committee and the Plan Staff. These two groups have worked very hard this past year and have faced many new issues.

Last year I titled this report "1991" Year of Accomplishment - 1992: Year of Challenge." I will describe to you my thoughts that 1993 will continue the challenges and major decisions of this year. 1992 was certainly a year of challenge; probably more than any of us anticipated. Further, I see more challenges ahead. As I will describe in a moment, 1992 was also a year of significant decisions which will continue through 1993.

There have been two major decisions this year. The positive one was the District Court ruling last Friday which stated that the current Plan rules are valid, constitutional, and that the Governing Committee must present changes to Plan rules to the State Board for approval as has been the case since the inception of the Plan.

The second decision was negative in its impact on the total insurance industry. In February, the State Board approved only a 4.7% rate increase after the Plan filed for a 47% increase. A major reason given was that the data was not credible. Yet, by law, the State Board has the responsibility to provide data for rate making purposes. Concern was also expressed over the number of no-prior insurance applicants coming into the Plan based on OPIC's – the Office of Public Insurance Counsel – assertion that these people presented no greater risk than standard business in the voluntary market.

This decision indicates the State Board is willing to hold Plan rates at a level well below an actuarial based level. The continued rapid growth of the Plan is in part due to rates that are competitive with the voluntary market. The Plan is, today, not the market of last resort as was intended by the legislature. There are several reasons why I believe 1993 will be a year of decision.

There is a rate hearing for the Plan scheduled for December 15. The Governing Committee, through its counsel and consultants, is making every effort to overcome the previous concerns over the credibility of the data and the concern over the number of no-prior insurance applicants to the Plan. It is hoped that the State Board and OPIC will support a rate increase that will eliminate the projected 60% rate need.

At this time there has been no indication whether the State Board, or OPIC, will appeal the District court's decision regarding Plan rules.

OPIC will continue to pay close attention to the Plan. Their practice is to first take legal steps, such as filing petitions with the State Board of Insurance, or writing complaint letters to the department of insurance, and then, they will offer to discuss their concerns with the Governing Committee leadership. That practice requires the Plan to respond through its counsel which increases Plan costs and adds another step in the negotiation process.

Certain issues related to the Plan, including Governing Committee membership, are before the Legislature's Sunset Commission. OPIC has indicated it will request the Legislature to add physical damage coverage to the Plan. When any subject is before the Legislature, there are no guarantees on the outcome.

Some the decisions to be made (in 1993) are:

Non-Insurer members of the Governing Committee will require some decisions. The Governing committee is on record supporting the addition of public members and agent members. Earlier this year the State Board was asked to approve adding 6 public members, of which 2 are to be agents, to its membership. That request was disapproved when the State Board opted to arbitrarily change the membership to 9 non-insurers and 7 insurers.

That issue has not moved to the Legislature. The Sunset Commission staff report includes a recommendation to change the membership to 5 insurers and 4 non-insurers. Regardless of how the membership question is resolved, we can expect non-insurer members on the Committee.

The Governing Committee is committed to providing, as required by law, a market of last resort for those risks who are unable to obtain insurance in the voluntary market – for coverage that is needed to satisfy the financial responsibility requirements.

To accomplish that goal, the Governing Committee must assure that proper rules and procedures are in place to take care of these consumers just as it has been doing for over 40 years. It is interesting to note that in the effort to take control of the Plan from the industry, in all the hearings before the State Board and the District Court, not one piece of testimony was presented regarding the failure of the Plan to provide for the needs of consumers as required by law.

Bobby described the huge growth of the Plan beginning last year. That has presented many challenges to the Governing Committee and Plan Staff. Each group has done an excellent job meeting those challenges.

The main-frame computer was upgraded in anticipation of the growth, staffing was increased, implementation of a new organization has begun, and expanded quarters have been acquired for a move of the Plan office after the first of the year.

I promised to be brief, so I will close now even though there is much more that could be said. The many accomplishments this year could not have been done without the dedicated support of the Plan staff. They have worked very hard. I especially appreciate the direct support received, which any chairman must have to do a proper job.

The Plan has been well served by an equally dedicated and hard working Executive Committee -- Ed Held, Vice Chairman, and Ron Nichols, Secretary. They were essential in meeting and overcoming the challenges faced this year.

The Governing Committee provided a great deal of support to the Executive Committee. They spent much time preparing for the meetings and then discussing the issues.

On a personal note, assuming the election of the Governing Committee, later this morning, goes the way I expect, this will conclude my 3 and 1/2 years as chairman. I cannot say enough to indicate my appreciation of the cooperation of Ed and Ron, and Dick Geiger, Phyllis Pollard, and their associates. While this last year has been tough, working with these people has made it much easier.

A motion was made, seconded and unanimously passed to accept the Manger's and Chairman's reports.

The next order of business was the determination of the Governing Committee for the ensuing year. The designated companies are as follows:

American Insurance Association

Mr. Frank DiRenzo, Dallas, Texas
The Travelers

Mr. Eugene E. Flynn, Hartford, Connecticut
ITT Hartford

Alliance of American Insurers

Mr. Michael Mott, Irving, Texas
Liberty Mutual Insurance Company

Mr. Dale W. Abbott, Bellaire, Texas
Amica Mutual Insurance Company

National Association of Independent Insurers

Mr. Edward Held, Northbrook, Illinois
Allstate Insurance Company

Mr. Stuart Awbrey, San Antonio, Texas
United Services Automobile Association

Non Affiliated Companies

Mr. Richard Shellito, Dallas, Texas
State Farm Insurance Companies

Mr. Clint Gardner, Austin, Texas
Farmers Insurance Group of Companies

Association of Fire and Casualty Companies in Texas

Mr. Synott L. McNeel, Galveston, Texas
American Indemnity Company

Mr. Eldon L. Farek, Dallas, Texas
Trinity Universal Insurance Company

The Chairman then inquired if there was any new or unfinished business to be laid before the meeting. There being no further business, the meeting was adjourned. Following the adjournment, the Governing Committee convened and elected Mr. Ed Held as Chairman, Mr. Eugene Flynn as Vice Chairman, and Mr. Clint Gardner as Secretary.

RESUME OF ACTIVITIES

| | 12 Months 1991 | 12 Months 1990 |
|------------------------------|-------------------|-------------------|
| Applications Assigned | | |
| Private Passenger | 365,932 | 151,078 |
| All Other | 7,768 | 17,507 |
| Not Qualifying | 6 | 12 |
| Policies Renewed | | |
| Private Passenger | 73,617 | 57,727 |
| All Other | 4,239 | 5,543 |
| Policies Cancelled | | |
| Private Passenger | 94,848 | 63,055 |
| All Other | 4,047 | 4,958 |
| Premiums | | |
| Private Passenger | \$218,957,947 | \$101,214,857 |
| All Other | \$9,966,680 | \$12,162,856 |
| Expenses Incurred | \$1,464,005 | \$709,588 |
| Cost Per Policy | \$3.24 | \$3.07 |

**TEXAS AUTOMOBILE INSURANCE PLAN
STATEMENT OF REVENUE, EXPENSES AND
CHANGES IN FUND BALANCE**

For the years ended August 31, 1992 and 1991

| | 1992 | 1991 |
|--|---------------------|-------------------|
| REVENUE | | |
| Member's assessment | \$3,076,615 | \$1,532,302 |
| Assessment penalties | 2,224 | 843 |
| Interest income | <u>45,778</u> | <u>27,062</u> |
| Total Revenue | <u>3,124,617</u> | <u>1,560,207</u> |
| EXPENSES | | |
| Salaries | 1,132,436 | 450,005 |
| Postage and telephone | 309,655 | 117,682 |
| Legal | 297,559 | 26,768 |
| Computer and programming expense | 130,263 | 49,647 |
| Actuarial fees | 117,921 | 00 |
| Employee benefits; | | |
| Pensions plan | 42,020 | 30,064 |
| 401A benefit plan | 8,674 | 7,298 |
| Dues and subscriptions | 13,956 | 3,374 |
| Educational seminars | 16,402 | 2,819 |
| Governing committee | 84,872 | 57,464 |
| Insurance | 10,554 | 1,372 |
| Insurance, group | 52,320 | 26,789 |
| Auditing | 3,400 | 3,375 |
| Office supplies and expense | 51,526 | 21,882 |
| Rent | 70,372 | 46,523 |
| Voice response | 73,859 | 00 |
| Taxes | 56,391 | 34,219 |
| Travel and entertainment | 21,024 | 5,992 |
| Other | <u>20,430</u> | <u>4,709</u> |
| Total expenses before depreciation and amortization | 2,513,634 | 889,982 |
| Depreciation and amortization | <u>34,063</u> | <u>36,876</u> |
| Total expenses | <u>2,547,697</u> | <u>926,858</u> |
| Excess of revenue over expenses | 576,920 | 633,349 |
| Fund Balance, beginning of year | <u>870,974</u> | <u>237,625</u> |
| Fund balance, end of year | <u>\$ 1,447,894</u> | <u>\$ 870,974</u> |

**TEXAS AUTOMOBILE INSURANCE PLAN
STATEMENT OF CHANGES IN FINANCIAL POSITION
YEAR ENDED AUGUST 31, 1992**

| | |
|---|-------------------|
| Funds provided by: | |
| Excess of revenue over expenses | \$ 576,920 |
| Add (subtract) items not requiring funds: | |
| Depreciation | 34,063 |
| Gain on sale of fixed assets | <u>(5,750)</u> |
| Total funds provided | 605,233 |
| Funds used for: | |
| Purchase of fixed assets | <u>(69,400)</u> |
| Increase in working capital | <u>\$ 535,833</u> |
| <u>Analysis of changes in working capital</u> | |
| Increase in current assets: | |
| Cash | \$ 673,298 |
| Prepaid expenses | <u>17,812</u> |
| | 691,110 |
| (Increase) in current liabilities: | |
| Accounts payable | <u>(155,277)</u> |
| Increase in working capital | <u>\$ 535,833</u> |