

EMPLOYMENT RISK MANAGEMENT AUTHORITY (ERMA)

**MINUTES OF THE BOARD OF THE COVERAGE COMMITTEE MEETING
OF JANUARY 21, 2021**

An ERMA Coverage Committee Meeting was held on January 21, 2021, all portions of this meeting were conducted via Webex in accordance with Government Code Section 54953(b). The meeting was conducted under Governor Gavin Newsom's Executive Order N-25-20 wherein public noticing of teleconference locations for each meeting participant is suspended.

COMMITTEE MEMBERS PRESENT: John Gillison, President, PARSAC
Truc Dever, Vice President, VCJPA
Stuart Schillinger, Treasurer, BCJPIA

COMMITTEE MEMBERS ABSENT: *None*

OTHERS PRESENT: Jennifer Jobe, Executive Director
Mona Hedin, Analyst/Training Coordinator
Doug Alliston, General Counsel

1. CALL TO ORDER/ROLL CALL

The January 21, 2021, ERMA Coverage Committee Meeting was called to order at 1:13 p.m., by President John Gillison. Roll call was taken, and it was determined a quorum was present.

2. APPROVAL OF AGENDA AS POSTED (OR AMENDED)

Truc Dever moved to approve the agenda as posted. Seconded by Stuart Schillinger. The motion passed unanimously.

3. PUBLIC COMMENTS

None

4. CONSENT CALENDAR

Truc Dever moved to approve the Consent Calendar. Seconded by Stuart Schillinger. The motion passed unanimously.

5. COVERAGE MATTERS

A. Discussion and Review of Proposed Changes to Resolution Requiring Members to Provide Proof of Compliance with Training Mandated by State Law

Jennifer Jobe, Executive Director, advised Resolution No. 2020-1, Requiring Members to Provide Proof of Compliance with Training Mandated by State Law has periodically been revised due to coverage and legislative changes since originally adopted in April 2006. She stated the most recent revision was approved by the Board at the February 2020 meeting, and noted staff recently conducted an additional review.

Ms. Jobe directed the Committee's attention to page 2 of the Resolution, that states:

“For any Claim, as such term is defined in ERMA’s Memorandum of Coverage, that is submitted to ERMA by an underlying member which relates to the subject matter of California Government Code §12950.1, each underlying member is required to provide ERMA with documentation evidencing they have substantially complied with as the training requirements mandated by said code section. Substantial compliance is defined as having 90% of all employees and elected officials trained in compliance with §12950.1 as of the date of occurrence of the Claim.”

The Committee discussed references to the term “substantial compliance,” and determined use of the term as defined, should remain.

Ms. Jobe noted further review was required of the penalty structure included within the Resolution for failure to comply with mandated training:

“Any underlying member that fails to comply with the mandated sexual harassment training or fails to provide ERMA with documentation evidencing compliance will have its retained limit increased by 100% for the submitted claim.”

The Committee discussed a revision wherein application of the existing penalty structure for late reporting of claims for members who are non-compliant with training requirements. The discussion continued regarding member agencies who are frequently non-compliant. The Committee directed staff to outline an expanded penalty structure for review and consideration at a future Committee meeting.

Stuart Schillinger moved to approve Resolution No. 2020-1, Requiring Members to Provide Proof of Compliance with Training Mandated by State Law, as presented. Seconded by John Gillison. The motion passed unanimously.

B. Review of Proposed Revisions to the Memorandum of Coverage for the 2020/21 Program Year, Effective January 1, 2021

Ms. Jobe stated the language contained in Resolution No. 2020-1 pertaining to the penalty structure for non-compliance with mandated training, is also included in the Memorandum of Coverage (MOC) for the 2020/21 Program Year.

She noted that although revisions to the MOC do not typically occur mid-program year, a modification is necessary due to the proposed amendments to Resolution No. 2020-1.

Ms. Jobe further noted Resolution No. 2020-1 amendments and the MOC align with the requirements of Senate Bill 778 for employers to comply with all training requirements by January 1, 2021.

John Gillison moved to approve the proposed revisions to the Memorandum of Coverage for the 2020/21 Program Year, Effective January 1, 2021. Seconded by Truc Dever. The motion passed unanimously.

C. Consideration of Additional Self-Insured Retention Option

Ms. Jobe noted member agencies are currently able to select from six self-insured retention (SIR) options, based upon total payroll — \$25,000; \$50,000; \$75,000; \$100,000; \$250,000; and \$500,000.

She further noted the Public Agency Risk Sharing Authority of California (PARSAC) and the Redwood Empire Municipal Insurance Fund (REMIF) impending merger and plan to form the California Intergovernmental Risk Sharing Authority (CIRA), effective July 1, 2021. She advised REMIF is comprised of fifteen member cities located throughout Sonoma, Mendocino, and Humboldt Counties, all of whom intend to apply for participation in ERMA as underlying members of CIRA.

Ms. Jobe stated that based upon CIRA's planned coverage structure, ERMA was asked to consider the addition of a \$350,000 SIR beginning in the 2021/22 Program Year. She noted the SIR for PARSAC's existing underlying members range from \$25,000 to \$250,000, and should the Board approve an additional \$350,000 SIR option, PARSAC's underlying members will move to the increased retention collectively under CIRA, thus reducing ERMA's overall exposure.

Ms. Jobe noted that with the approval of an additional SIR, staff will direct the actuary to develop a funding rate based upon a \$350,000 SIR for the coming program year.

Stuart Schillinger moved to approve the addition of a \$350,000 Self-Insured Retention option, beginning July 1, 2021. Seconded by Truc Dever. The motion passed unanimously.

D. Discussion Regarding Personnel Policies and Procedures Compliance

Ms. Jobe stated participating members of ERMA are required to maintain personnel policies and procedures that are regularly updated and reviewed by legal counsel. She also stated that upon application to ERMA, prospective members are required to provide information regarding existing policies and procedures such as compliance with California Government Code and whether policies are regularly reviewed by legal counsel.

Ms. Jobe noted the Board allocated funds in the 2017/18 program year, which allowed members to engage in a formal review of existing policies by one of ERMA's strategic partner law firms. She advised the review process resulted in recommended action memorandums issued to the member agencies that outlined necessary policy updates, training deficiencies and other associated risks. She stated that although staff has not conducted any member agency follow-up, access to reduced hourly rates for policy-related legal review, along with additional funding sources, remains available to member agencies that participated in the review program.

The Committee discussed member agency challenges associated with policy updates as they relate to various time and financial constraints. Discussion continued regarding the Committee's interest in development of a program whereby members are incentivized to demonstrate inclusion and transparency through up-to-date personnel policies and procedures which are regularly reviewed by legal counsel. Staff was directed to outline and present program options for review and consideration at a future Committee meeting.

E. Discussion and Review of Underwriting Guidelines

Ms. Jobe noted at the February 2020 Annual Workshop, the Board of Directors established a goal to review the payroll threshold for individual members interested in participation in ERMA.

Ms. Jobe recommended the Committee continue to regularly evaluate the Underwriting Guidelines and reviewed changes implemented in 2012 and 2014:

- Implementation of minimum payroll thresholds for program participation; and
- Submission of agency financials.

Ms. Jobe discussed the Board's previously stated desire to retain the program's identity as a "pool of pools" and recommended the Committee consider implementation of a significant increase to the minimum payroll requirement for individual members. Discussion ensued regarding the established payroll guidelines for both individual and underlying JPA members, resulting in direction to staff to present recommended revisions for the Committee's review and consideration at a future meeting.

6. CLOSING COMMENTS

A. Board of Directors

None

B. Staff

None

7. ADJOURNMENT

The January 21, 2021, ERMA Coverage Committee meeting adjourned at 2:20 p.m. by general consent.

Mona Hedin

Mona Hedin, Board Secretary