

EMPLOYMENT RISK MANAGEMENT AUTHORITY (ERMA)

MINUTES OF THE BOARD OF DIRECTORS MEETING OF APRIL 27, 2021

A regular meeting of the Board of Directors of ERMA was held on April 27, 2021, all portions of this meeting were conducted via Zoom 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.

BOARD MEMBERS PRESENT: John Gillison, President, PARSAC
Truc Dever, Vice President, VCJPA
Stuart Schillinger, Treasurer, BCJPIA
Robert Thompson, CalTIP
Sean Scully, CSJVRMA
Brett Miller, MBASIA
Linda Cox, MPA
Beth Lyons, PERMA
Kevin Bryant, PLAN
Charlene Calica, CCCHA
Artesia Dupree, OHA

BOARD MEMBERS ABSENT: John Duckett, SCORE

ALTERNATE MEMBERS PRESENT: Kin Ong, PARSAC
Jamie Scott, VCJPA (*Arrived during item 5.B.*)
Nataline Jindoian, CCCHA
Mellissa Guerrero, ERMAC
Tina Friend, MBASIA
Roger Carroll, SCORE

ALTERNATE MEMBERS ABSENT: Heather Rowden, BCJPIA
George Fink, CalTIP
Deneen Proctor, CSJVRMA
Mellissa Guerrero, ERMAC
Reina Schwartz, MPA
Yumi Augustus, PERMA
George Rodericks, PLAN
Drew Felder, OHA

OTHERS PRESENT: Jennifer Jobe, Executive Director
Mona Hedin, Analyst/Training Coordinator
Kathy Maylin, Litigation Manager
Ligia Nicolae, Litigation Analyst
Jim Elledge, Interim Finance Manager
Chee Xiong, Senior Accountant
Doug Alliston, General Counsel
Michael Christian, Jackson Lewis
Geoff Sheldon, Liebert Cassidy Whitmore
Elizabeth Arce, Liebert Cassidy Whitmore
Seth Cole, Alliant
Michael Simmons, Alliant
Derek Burkhalter, Bickmore Actuarial
Jaesa McCulligan, BCJPIA

Chrissy Mack, CalTIP/VCJPA
Jeanette Workman, CSJVRMA
Marcus Beverly, ERMAC
Conor Boughey, MBASIA
Rachna Singh, Sedgwick (*Arrived during item 5.B.*)

1. CALL TO ORDER/ROLL CALL

The April 27, 2021, Board of Directors Meeting was called to order at 10:01 a.m., by President John Gillison.

2. APPROVAL OF AGENDA AS POSTED (OR AMENDED)

Linda Cox moved to approve the Agenda as posted. Seconded by Brett Miller. Roll call was conducted with affirmative votes by Truc Dever, Stuart Schillinger, Beth Lyons, Robert Thompson, Sean Scully, Melissa Guerrero, Brett Miller, Linda Cox, Roger Carroll, Charlene Calica, Artesia Dupree, and John Gillison, with no nays or abstentions. The motion passed unanimously.

3. PUBLIC COMMENTS

None

4. CONSENT CALENDAR

Jennifer Jobe, Executive Director, highlighted the proposal with Alliant Insurance Services, Inc. (Alliant) for brokerage services. Ms. Jobe confirmed the proposal included a reduction in Alliant's commission from 10% to 8% over the next three years, expiring June 30, 2024.

Brett Miller moved to approve the Consent Calendar as follows: A) Minutes of February 11, 2021, Meeting of the Board of Directors and Summary of Action Items; B) General Warrants from January 1, 2021, through March 31, 2021; C) Claims Payments from January 1, 2021, through March 31, 2021; D) Proposal from Alliant Insurance Services for Brokerage Services; E) Resolution No. 2021-5, Requiring Members to Provide Proof of Compliance with Training Mandated by State Law; and F) ERMA Board Document Review Schedule. Seconded by Artesia Dupree. Roll call was conducted with affirmative votes by Truc Dever, Stuart Schillinger, Beth Lyons, Robert Thompson, Sean Scully, Melissa Guerrero, Brett Miller, Linda Cox, Roger Carroll, Charlene Calica, Artesia Dupree, and John Gillison, with no nays or abstentions. The motion passed unanimously.

5. ADMINISTRATIVE MATTERS

A. Staffing Update

Ms. Jobe noted Interim Finance Manager, Jim Elledge, will continue to provide financial oversight through the end of the program year and confirmed Rachna Singh, Sedgwick, will assume the role as Finance Manager, effective immediately.

Ms. Jobe continued her report by discussing Kathy Maylin's September 2021 retirement from her position as ERMA Litigation Manager. She stated the recruitment process remains underway and ERMA Board President, John Gillison, is regularly kept apprised regarding recruitment activities.

B. Excess Coverage Marketing Update for the 2021/22 Program Year

Seth Cole, Alliant, provided the Board with an update regarding the excess coverage renewal for the 2021/22 program year. He confirmed ERMA's incumbent excess carrier, RSUI, continues to review current loss history and has confirmed, barring any adverse claims development, a fair renewal will be provided by the June meeting for the Board's review.

He discussed ERMA's historical renewals indicating only one rate increase occurred in 2018/2019, which was a result of expanding program limits from a \$2M per member aggregate to a \$4M per member aggregate.

C. Resolution No. 2021-4, Establishing Meeting Dates for the 2021/22 Fiscal Year

Ms. Jobe presented meeting dates for the 2021/22 Fiscal Year. She confirmed staff hopes to resume in-person meetings beginning November 2021 and will begin to research venues for the February 2022 Annual Workshop.

Linda Cox moved to approve Resolution No. 2021-4, Establishing Meeting Dates for the 2021/22 Fiscal Year. Seconded by Artesia Dupree. Roll call was conducted with affirmative votes by Truc Dever, Stuart Schillinger, Beth Lyons, Robert Thompson, Sean Scully, Melissa Guerrero, Brett Miller, Linda Cox, Roger Carroll, Charlene Calica, Artesia Dupree, and John Gillison, with no nays or abstentions. The motion passed unanimously.

6. FINANCIAL MATTERS

A. Actuarial Study and Rates for the 2021/22 Program Year

Derek Burkhalter, Bickmore Actuarial, presented the actuarial study, highlighting the following components: 1) review of the ultimate loss estimates as of June 30, 2021; and 2) forecast analysis to determine funding rates for the 2021/22 program year.

Mr. Burkhalter advised ultimate loss estimates reduced significantly in the last several program years. He further reported:

- The total estimated liability for outstanding claims is \$17,053,000 as of June 30, 2021; and
- The 2021/22 loss rate projection at the 80% confidence level is 6,267,000; an 11% increase due to payroll exposure increase.

The Board discussed the rate increases which occurred over the last several program years. Ms. Jobe stated ERMA recognized a 14% rate increase for the 2020/21 program year and noted that in previous years, rate increases averaged approximately 6%.

Truc Dever moved to accept and file the actuarial study, as presented. Seconded by Brett Miller. Roll call was conducted with affirmative votes by Truc Dever, Stuart Schillinger, Beth Lyons, Robert Thompson, Sean Scully, Melissa Guerrero, Brett Miller, Linda Cox, Roger Carroll, Charlene Calica, Artesia Dupree, and John Gillison, with no nays or abstentions. The motion passed unanimously.

B. Review of Preliminary Administrative and Operating Budget for the 2021/22 Program Year

Mr. Elledge reported the budget accounts for funding for losses, excess insurance costs, loss prevention and training, and administrative expenses.

He noted the following anticipated membership changes:

1. Addition of the California Intergovernmental Risk Authority (CIRA); a JPA that will form effective July 1, 2021, as a result of a merger between the Public Agency Risk Sharing Authority of California and the Redwood Empire Municipal Insurance Fund;
2. Addition of the City of Sierra Madre to CIRA;
3. Addition of the City of Murrieta Fire Department to the Public Employment Risk Management Association; and
4. Withdrawal of the Oroville Mosquito Abatement District from the Vector Control Joint Powers Agency.

He confirmed that in anticipation of the new members, an additional \$150M in payroll is included in the budget.

Mr. Elledge stated the preliminary budget included \$9,665,854 in 2021/22 contributions, a 5.4% increase over the prior year.

He noted the 4.94% rate increase with the reduction in the discount rate from 1.5% to .5%, contributed to approximately 1% of the overall increase.

He went on to discuss experience modification (ex-mod) factors applied at the JPA level, and stated some members recognized an increased ex-mod factor due to their individual loss experience.

The estimated 10% excess coverage rate increase was questioned, and Mr. Cole responded, stating he believes the increase may ultimately be less than estimated, but stated 10% was an appropriate estimate due to the current insurance market.

C. Review of the Annual Retrospective Adjustment Calculation

Mr. Elledge reported the preliminary calculation indicates net position available for distribution of \$5M, at December 31, 2020. He stated an estimate of \$200,000 was presented to the Board at the February 2020 meeting; however, the net position has increased significantly due to better-than-expected loss experience in program years 2012/13, 2013/14, and 2015/16.

Discussion ensued regarding potential uses of program equity in lieu of a cash dividend.

Ms. Jobe noted the Capital Contribution Fund (CCF) was established in 2015 as a mechanism by which the Board allocates funds to various programs, including the personnel policy review program that occurred in 2018. She further noted the CCF also funds the Training & Risk Management Program, established July 1, 2020. The program provides members with reimbursement for employment-related expenditures such as training and education. Ms. Jobe stated staff will continue to evaluate the CCF for use in future projects.

A discussion ensued regarding claim frequency and severity. Ms. Jobe stated the Litigation Management Program and staff's early involvement in claim matters has resulted in a noticeable reduction of ERMA's overall exposure over the past several years.

Ms. Jobe concluded by presenting a chart outlining historical dividend releases of \$26.6M over the last eight years. She confirmed in the current 2020/21 year, the Board opted to allow members the option to receive the dividend via check or apply it to their membership contribution.

7. MEMBERSHIP MATTERS

A. Review of Prospective New Member Applications – Redwood Empire Municipal Insurance Fund (REMIF) and Underlying Member Entities

Ms. Jobe advised the Underwriting Committee (Committee) met on April 2, 2021, to discuss applications for REMIF and its underlying members' requests for participation in ERMA under the California Intergovernmental Risk Authority (CIRA), effective July 1, 2021.

She stated CIRA's Board has not yet determined the self-insured retention (SIR) at which they will participate, \$250,000 or \$350,000, and advised staff's recommendations for approval include both SIR options.

Ms. Jobe continued by noting the City of Sonoma, in their application for participation, advised their personnel policies and procedures had not been updated since 2015, resulting in the Committee's recommendation of approval based upon the condition the agency updates their policies by July 1, 2023.

She concluded the Committee recommended that any prospective member with outdated policies conduct a comprehensive update of their policies within the next two program years with assistance from legal counsel with employment sector law expertise.

Truc Dever moved to approve: 1) the Redwood Empire Municipal Insurance Fund and underlying members – Cities of Cotati, Fort Bragg, Fortuna, Healdsburg, and St. Helena at a \$250,000 or \$350,000 SIR, effective July 1, 2021; and 2) the City of Sonoma at a \$250,000 or \$350,000 SIR, effective July 1, 2021, with the condition the City's personnel policies and procedures are updated, reviewed by legal counsel, and approved by City Council, no later than July 1, 2023. Seconded by Linda Cox. Roll call was conducted with affirmative votes by Truc Dever, Stuart Schillinger, Beth Lyons, Robert Thompson, Sean Scully, Melissa Guerrero, Brett Miller, Linda Cox, Roger Carroll, Charlene Calica, Artesia Dupree, and John Gillison, with no nays or abstentions. The motion passed unanimously.

8. COVERAGE MATTERS

A. City of Victorville (PERMA) Appeal of Denial of Coverage

Doug Alliston, General Counsel, stated the City of Victorville (City), an underlying member of the Public Entity Risk Management Authority (PERMA), reported a complaint which, upon initial review, did not include an alleged wrongful employment practice. Mr. Alliston noted a denial of coverage was issued on December 31, 2020, which began the 90-day period for an appeal to the Board. Mr. Alliston stated that after discussions with PERMA, it was determined the complainant may amend the initial complaint upon the appointment of new legal counsel.

Mr. Alliston reported the Coverage Committee met to review the matter and requested the Board consider a stay of the appeal as an amended complaint would automatically initiate a new appeal period.

Beth Lyons moved approve the City of Victorville's (PERMA) request to stay the appeal of denial of coverage. Seconded by Artesia Dupree. Roll call was conducted with affirmative votes by Truc Dever, Stuart Schillinger, Beth Lyons, Robert Thompson, Sean Scully, Melissa Guerrero, Brett Miller, Linda Cox, Roger Carroll, Charlene Calica, Artesia Dupree, and John Gillison, with no nays or abstentions. The motion passed unanimously.

9. TRAINING/LOSS PREVENTION MATTERS

A. Update Regarding the Training Program for the 2020/21 Program Year

Mona Hedin, Analyst & Training Coordinator, presented an update regarding training conducted during the 2020/21 Program Year.

Ms. Hedin advised to date, 23 trainings were requested, 15 of which were mandated harassment and discrimination trainings.

The Board reviewed a map providing a graphical representation and attendance counts of all trainings conducted throughout the year. She stated the total number of trainings delivered thus far, as compared to last program year, has decreased; however, following the transition from in-person trainings to webinar-based, these sessions have allowed for overall expanded participation of attendees.

She noted online training is heavily utilized via in2vate and advised additional topics were added to the list of available training modules.

Ms. Hedin discussed the training compliance survey, implemented at the Board's direction on January 1, 2021, and advised the self-certification survey is promoted to the membership weekly, via the Training Bulletin. She stated an additional communication would be provided to members and the JPA Administrators in the coming weeks in an effort to drive increased participation in the survey.

Ms. Hedin concluded her report by discussing the Training & Risk Management Program, and advised the Program continues to garner interest from members. She noted staff included training requests via the Program and included the new topics for the Board's consideration for the 2021/22 program year slate of trainings.

B. Review of Training Program for the 2021/22 Program Year

Ms. Jobe stated staff and strategic partner firms Jackson Lewis and Liebert Cassidy Whitmore, developed the following topics for the Board's consideration for the 2021/22 program year:

1. **Harassment, Discrimination and Retaliation Prevention for Supervisors**
AB 1825-compliant
2. **Harassment, Discrimination and Retaliation Prevention for Non-Supervisors**
SB 1343-compliant
3. **Navigating Common Legal Risks for the Front-Line Supervisor:** This training teaches supervisors to effectively and appropriately respond to situations that place the agency at risk by offering real-life scenarios and recommendations for dealing with a myriad of legal and interpersonal issues in the workplace.
4. **Leaves, Leaves, and More Leaves:** This training focuses on the various paid and unpaid leaves, e.g., FMLA/CFRA/ADA/FEHA/sick leave, etc., and will provide participants with important information for addressing and responding to leave requests, including such issues as determining when employees are eligible for leaves and the employers' responsibilities in providing these leaves.
5. **The Disability Interactive Process – Addressing Medical Issues and Disabilities in the Workplace/Understanding the Interactive Process and Required Accommodations:** This training covers the legally mandated reasonable accommodation interactive process including: starting the interactive discussion; what is reasonable accommodation; light-duty assignments; leaves; vacancies, and how long the interactive process must continue.
6. **Public Employee Performance Management, Discipline, and Terminations: Required Process and Substance:** A detailed review of the requirements and best practices for evaluations and the discipline process, including understanding due process and MOU rights. Well-suited for all supervisors and anyone with human resource responsibilities.
7. **Managing COVID-19 Issues: Now and What's Next:** This training addresses how ERMA's member agencies can navigate providing a safe workplace that is balanced with employees' rights, including return-to-work issues.
8. **Technology, Employee Speech, and Employee Privacy:** This training covers the wide range of issues arising from the interplay between technology and privacy in the workplace. It guides managers through the federal and state laws and court decisions that govern these issues. It also identifies ways to respond to inappropriate employee

use of social networking media, as well as when employers can use this same media in hiring, investigations, and discipline.

9. **Discrimination/Harassment/Retaliation for Public Safety Departments**: This session is designed for anyone managing safety employees and covers specific aspects of the special Bill of Rights.
10. **What's New in Employment Law - What Managers Need to Know**: Employment law and guidelines are ever-changing. This session reviews new case law, and new and pending legislation.
11. **Hiring and Managing New Employees**: This training covers what is required and best practices in the hiring process, orientation, and managing new employees, including during “probationary” periods. Understand what can and should be covered during interviews and how to deal with what you learn; understand what a good orientation and training process should entail; and understand how to resolve issues early in employment. This training is good for all supervisors who might be involved in the hiring process in any fashion.
12. **Understanding and Preventing Implicit Bias and Promoting Diversity and Inclusion in the Workplace**: This two-hour training will focus upon avoiding implicit bias and promoting diversity, equality, and inclusion in the workplace.

Ms. Jobe stated, upon approval from the Board, staff will begin to schedule trainings for the 2021/22 program year.

Linda Cox moved to approve the proposed slate of training topics for the 2021/22 program year. Seconded by Truc Dever. Roll call was conducted with affirmative votes by Truc Dever, Stuart Schillinger, Beth Lyons, Robert Thompson, Sean Scully, Melissa Guerrero, Brett Miller, Linda Cox, Roger Carroll, Charlene Calica, Artesia Dupree, and John Gillison, with no nays or abstentions. The motion passed unanimously.

10. CLAIMS MATTERS

A. Closed Session Pursuant to Government Code Section 54956.95(a) to Discuss Claims

Pursuant to Government Code Section 54956.95(a), the Board recessed to Closed Session at 11:35 a.m. to discuss the following claims:

- Aguilar v. Ceres
- Soriano v. Twentynine Palms
- Guy v. Watsonville

B. Report from Closed Session

The Board reconvened to Open Session at 11:53 a.m. Mr. Alliston advised no reportable action was taken in Closed Session.

11. CLOSING COMMENTS

A. Board of Directors

None

B. Staff

Ms. Jobe reported John Duckett, SCORE, will retire prior to the June 8, 2021, Board Meeting and expressed staff's gratitude for Mr. Duckett's years of service to the ERMA Board and the member agencies.

12. ADJOURNMENT

The April 27, 2021, ERMA Board of Directors Meeting adjourned at 11:53 a.m. by general consent.

Mona Hedin

Mona Hedin, Board Secretary