



## Legislation Text

File #: 18-1218, Version: 1

Human Resources Department, Risk Management Division, recommending the Board:

1) Approve the County purchase first-dollar workers' compensation insurance coverage through the Primary Workers' Compensation Program and eliminate the current \$300,000 self-insured retention for workers' compensation; and

2) Adopt and authorize the Chair to sign Resolution **187-2018** authorizing the Director of Human Resources or the Risk Manager to submit an application to the Director of Industrial Relations, State of California, for a Certificate of Consent to Self-Insure by Interim Self Insurer related to workers' compensation liabilities on behalf of the County of El Dorado and to execute any and all documents required for such application.

**FUNDING:** Internal Service Fund.

### **DISCUSSION / BACKGROUND**

Since May 1, 1992, the County of El Dorado (County) has been a member of the California State Association of Counties Excess Insurance Authority (CSAC-EIA), a member-directed risk sharing pool of counties and public entities committed to providing risk coverage programs and risk management services which are competitive, available, responsive, equitable and stable.

The CSAC-EIA currently offers two Workers' Compensation Programs:

#### 1. Excess Workers' Compensation (EWC)

Under this program, a member entity must have a Certificate of Consent to Self-Insure from the Department of Industrial Relations. (The County has had such a certificate since January 1, 1979.) Each member selects from among the available Self-Insured Retention (SIR) levels, currently at \$125,000 to \$5,000,000. There are approximately 178 members, including 49 counties. Members must bear the cost and provide the administration and defense of claims themselves, which may be in-house or outsourced. The costs to administer the claim, regardless of whether claims administration is done in-house or by an outside Third Party Administrator (TPA), are never reimbursed, not even when the costs exceed the SIR. Likewise, in-house defense costs are never reimbursed. Outsourced defense costs are reimbursed only when total reimbursable costs exceed the SIR. Members must also adhere to CSAC-EIA guidelines, obtain an actuarial study every three years, a claims audit every two years, and file appropriately for claims reimbursement on a claim-by-claim basis. Since July 1, 2002, the County has been covered by CSACEIA EWC for any loss exceeding our chosen SIR amount of \$300,000 for each individual claim.

#### 2. Primary Workers' Compensation (PWC)

Under this program, a member entity is an affiliate of CSAC-EIA PWC which holds the Certificate of Consent to Self-Insure. Upon the initial selection of this option, the County is required to file a Resolution with the Department of Industrial Relations to obtain a separate affiliate Certificate of Consent to Self-Insure. All members in PWC are simultaneously

members in EWC. There are 40 members of PWC, 11 of which are counties. The PWC program provides "first dollar coverage" in that it includes a self-funded pool from \$0 to \$10,000 per occurrence with excess insurance for \$10,000 to \$125,000 and protected by reinsurance to 100%.

Under this program, CSAC-EIA must bear the cost, from the first dollar spent, for the administration and defense of claims, neither of which is permitted to be provided by the member's staff. The member entity is permitted to choose from among TPAs with whom CSAC-EIA has negotiated contracts, and must adhere to the same CSAC-EIA guidelines and be subject to claims audits as under EWC. The member also has the right to later change to a different TPA on the approved list if it is not satisfied with the service level. Staff has researched each TPA and has selected York which seems to not only be the best fit, but its Roseville office is the closest in proximity. A member must make a three-year commitment to the PWC program but may freely leave the program and return to EWC (or make another choice) at the end of the three-year period, or may continue with PWC on a year-by-year decision basis (as members do under the EWC). This program has returned dividends to its members for the past eight years. The PWC Committee has approved the admission of El Dorado County into the program effective September 1, 2018, should the Board decide to adopt Risk Management's recommendation.

Unlike group health insurance which provides coverage of an employee's overall nonindustrial health care (meaning a new carrier or program selected by the employer would assume all care of the employee regardless of when the condition began), workers' compensation covers medical treatment for a specific work-related injury or illness (even if they are not yet reported) based upon the date of such injury or illness, for as long as that treatment is necessary, which could be many years. Therefore, all claims for industrial illnesses or injuries incurred prior to September 1, 2018, would be covered under the applicable EWC SIR level for date of injury. Such claims are commonly referred to as "tail claims" and would continue to be self-administered and self-defended by the County. The County would remain in the Excess Workers' Compensation Program to cover workers' compensation costs from \$300K to statutory. At the conclusion of the three-year period, a report will be made to the Board to determine if involvement in the PWC was successful.

Overall injury trend and cost analysis would continue to be important functions of risk management under both EWC and PWC, since such efforts are not confined to the self-administration of claims. In addition, Risk Management would continue under both EWC and PWC to be responsible for the disability management and return-to-work efforts for all employees, regardless of date or whether the disability is industrial or not. Furthermore, under either program, Risk Management would continue to manage the County's overall safety program to help prevent future injuries. Under PWC, Risk Management would continue to meet with departments to discuss the status of all open claims with the TPA representative present.

The potential risk of joining the PWC is loss of control of administering and litigating claims and the potential for rate increases in "out years" that may offset the savings experienced in Fiscal Year 2018-19. Rate increases would be based on the County's payroll and latest claims experience.

## **ALTERNATIVES**

The Board could choose to take no action and the County would remain self-insured for the first \$300K of workers' compensation claims.

## **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

N/A

## **CAO RECOMMENDATION**

It is recommended that the Board approve this item.

## **FINANCIAL IMPACT**

Funding for these insurance programs is included in the Risk Management Internal Service Fund budget for FY 2018-19, and costs are recouped from County departments through internal charges. Costs are included in the FY 2018-19 Recommended Budget.

Based on the most recent actuarial study and a confidence level of 70%, funding through the current model of a \$300,000 SIR would cost \$5,616,696. Alternatively, participating in the PWC Program would result in a premium of \$5,107,000 producing an aggregate savings of \$509,696 at the 70% confidence level. The pro-rated premium of \$3,471,953 would cover the costs for all industrial injuries and illnesses incurred from September 1, 2018, to June 30, 2019. The cash reserves on-hand as of August 31, 2018 will be the source of funding for all injuries and illnesses incurred on or before that date.

Additionally, joining the PWC would redirect one FTE performing workers' compensation administrative functions and allow that position to focus on employee safety and training. A more robust County-wide Loss Prevention Program aimed at building a culture of safety mindfulness and compliance will contribute immensely in reducing the overall risk and liability within the County.

## **CLERK OF THE BOARD FOLLOW UP ACTIONS**

Provide a certified minute order of the agenda item to Katie Lee in Human Resources and the Chief Administrative Office.

## **STRATEGIC PLAN COMPONENT**

Good Governance

## **CONTACT**

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