BOARD OF SUPERVISORS
AGENDA LETTER

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:

Department Name:	General Services
Department No.:	063
For Agenda Of:	12/13/11
Placement:	Departmental
Estimated Tme:	30 Minutes
Continued Item:	No
If Yes, date from:	
Vote Required:	Majority

TO: Board of Supervisors

FROM: Department Director(s): Bob Nisbet, General Services Director, ext. 1011
Contact Info: Ray Aromatorio, Risk Manager, ext. 6865

SUBJECT: **CSAC-EIA Primary Workers' Compensation Program Update**

County Counsel Concurrence
As to form: N/A

Auditor-Controller Concurrence
As to form: N/A

Other Concurrence: N/A
As to form: No

Recommended Actions:

That the Board of Supervisors receive a presentation on the Risk Management Division Workers' Compensation Program and a status update on the success of moving from a self-insured program to the California State Association of Counties' Primary Workers' Compensation program (PWC).

Summary Text:

For over 30 years, the County of Santa Barbara has been a member 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.

On April 20, 2010, the Board of Supervisors approved a significant change in the way workers' compensation claims are processed by moving from the CSAC-EIA Excess Workers' Compensation (EWC) program to the CSAC-EIA Primary Workers' Compensation (PWC) program effective July 1, 2010. Staff was also directed to annually update the Board of Supervisors on the PWC program so that by the end of the third year in the program, a decision could be made regarding whether or not to continue in the program.

Background:

Board of Supervisors' Resolution 73-462 established the Workers' Compensation Self-Insurance Fund on July 9, 1973. Board Resolution No. 82-336 established an initial reserve of $2,000,000 for payment of future claims. On September 24, 1979, the Board of Supervisors, along with 28 other counties, signed the original Joint Powers Agreement that created CSAC-EIA, which has since grown to 278 members, 54 of which are counties. Since November 1, 1979, the County has been covered by CSAC-EIA EWC for any loss exceeding our chosen self-insured retention (SIR) amount which has ranged between $250,000 to its current level of $500,000 for each individual claim.

Under the EWC program, costs for the administration of the claims are not covered even above the $500,000 SIR, whether such services are provided by county employees or contracted to an outside Third Party Administrator (TPA). From March 2002 through November 2008, approximately one-third of the county's claims were managed by a TPA.

The legal defense of litigated claims is covered for claims above the $500,000 SIR only if such services are provided by outside counsel. Approximately 25 years ago, the defense of litigated claims was brought in-house, and as such, was not allowable as a reimbursement by the EWC. However, in May 2008, County Counsel began to outsource those claims that were approaching the SIR to Tobin-Lucks, a local firm specializing in the defense of workers' compensation claims such that defense costs could be reimbursed.

On July 1, 1997, the CSAC-EIA Primary Workers' Compensation (PWC) program was created, with 18 initial members. It has grown to 40 members, including 11 counties. The PWC program differs from the EWC program in that the EIA assumes all administrative responsibilities, and it includes a self-funded pool, from a pool of up to $10,000 per occurrence with excess insurance for $10,000 to $125,000 and protected by aggregate stop loss reinsurance beyond $125,000.

The Primary Workers' Compensation program provides "first dollar coverage" for all claims occurring on or after July 1, 2010. CSAC-EIA bears the cost, from the first dollar spent, for the administration and defense of claims. Subsequently, CorVel was selected as the County's TPA from a list of three approved TPAs with whom CSAC-EIA has negotiated contracts. The TPAs must adhere to the same CSAC-EIA guidelines and be subject to claims audits as under EWC. The County is almost 18 months into a three year commitment to the PWC program, but may freely leave the program and return to the EWC program at the end of the three year period, or may continue with PWC on a year-by-year basis.

All claims for industrial illnesses or injuries incurred prior to July 1, 2010 are commonly referred to as "tail claims" and are still covered under the EWC program. These claims were self-administered by the County; however, on June 21, 2011 the Board of Supervisors approved an agreement with CorVel to provide the administration for all tail claims for a one-time payment of $302,204.17. The tail claims continue to be defended by County Counsel and all claims liability within the self-insured retention remains the County's responsibility.

Corvel submitted its annual "Workers Compensation Stewardship Report" on September 20, 2011 summarizing all the activities undertaken in FY 2010-2011 relating to the PWC program. The claims administration is handled by one branch manager, one claims supervisor, two senior claims specialists, two claims specialist and two claims assistants. These eight claims professionals are well trained and knowledgeable. CorVel has met all mandatory reporting requirements and has effectively and efficiently processed claims.

Claims Prevention:
Risk Management remains responsible for the disability management and return to work efforts for all employees, regardless of date or type (industrial or non-industrial) of injury, under both EWC and PWC programs. Furthermore, both programs include the management of the County's overall safety program to help prevent future injuries.

The County's Safety Program has been undergoing significant changes beginning with the revision of the Injury and Illness Prevention Program (IIPP) signed off by the CEO in October 2010. Subsequently, the Board of Supervisors adopted an ordinance amending the County Safety Program in November 2010. The IIPP rules are also being revised and updated. Moreover, all County Departments are in the process of being trained on the County's IIPP. Included in the updated rules is a revised driving policy the requires all County employees to receive driver's training if the employee is determined to be at fault in the accident while in the course and scope of his/her employment.

The Disability Management Program has been proactive in identifying cases where the County is legally obligated to engage with the employee in an interactive process for reasonable accommodation and identifying suitable candidates for the Back to Work Program, temporary modified work or the CARE process. The Disability Manager screens all incoming medical reports with temporary and permanent work restrictions and contacts the department within 24 hours of receipt regarding the potential need for accommodations to encourage an early return of the employee to work. Additionally, all Workers Compensation ergonomic evaluation reports are reviewed and recommendations are provided to departments to ensure appropriate action is taken to prevent exacerbation of an existing injury or a new injury from occurring.

Fiscal and Facilities Impacts:

An annual actuarial report is prepared for all three internal service funds (General Liability, Workers' Compensation and Medical Malpractice) managed by the Risk Management Division. This information is utilized by the Risk Management Evaluation Team (RMET)[1] to determine the funding requirement and the rates for each department. All three actuarial reports were finalized and received by the County on November 3, 2011. The review of the self-insured programs provides the outstanding liabilities as of June 30, 2011 and June 30, 2012 and a forecast for program years 2011-12 and 2012-13.

[1] RMET is composed of the County Executive Officer, the Auditor-Controller, County Counsel, and the General Services Director.

The actuary states in his report relating to the Workers' Compensation Program that "If the county had not elected to participate in CSAC's PWC program, it is estimated that additional 2012-13 funding of approximately $1,872,000 would be needed to meet the marginally acceptable (70% confidence level) loss and LAE [loss adjustment expense] projection for its self-insured program."[2]

In spite of this positive outcome of moving to PWC, the Workers' Compensation Fund during the past two years has realized a change in projected equity from a positive **$2.7 million** to a negative **$4.2 million** arising, in part, out of two adverse actuarial adjustments. The actuary forecasts the claims liability based on the previous year's data and subsequently adjusts that analysis using the following year's actual data for that same period of time. The first adverse adjustment of **$1.3 million** occurred after June 30, 2010 using the actual loss data for FY 2009-10. Similarly, the second actuarial adjustment of **$1.3 million** occurred after June 30, 2011 using the actual loss data for FY 2010-11. In both occurrences the previously forecasted liability was higher than what the actuary had previously projected.

Although there was a certain awareness of this potential negative trend beginning two years ago, it was determined by RMET not to increase rates the past two years given the challenging budget situation the County was facing. These decisions underfunded the fund by another **$2 million**.

Finally, the most significant cause of the change in equity relates to the interest earning assumptions. In the past, the interest earning assumption was 3%; however that was reduced to 1% this year which alone accounts for a **$2.3 Million** decrease in the fund's equity position.

This combination of occurrences over the past two years has caused the Workers' Compensation Fund to go into a deficit of $4.2 million projected for June 30, 2012. To address this negative trend, RMET agreed to employ a 7-year deficit recovery plan to ensure that the Workers' Compensation Program is appropriately funded by the end of Fiscal Year 2018. This recovery plan amortizes the projected $4.2 million deficit over a 7-year period and adds the annual amortized amount ($4.2 million /7 years = $600,000) to the projected rate for that year. It was felt that given the current budget challenges, 7 years was the appropriate time to ease the fund out of the deficit.

Based on the recovery plan, the proposed rate for Fiscal Year 2012-13 is $11.76 million.

Special Instructions:

Send approved minute order and 1 copy to: Bob Nisbet, General Services Department.

Attachment:

1) Powerpoint Presentation

Authored by: Bob Nisbet, General Services Director

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[2]Actuarial Review of the Self-Insured Workers' Compensation Program, Presented to Santa Barbara County, November 2011; Bickmore Risk Services