



Agenda Item

DATE: May 3, 2011

TO: Board of Supervisors

FROM: John Navarrette, County Administrative Officer
 Vicki Crow, Auditor-Controller/Treasurer-Tax Collector
 Beth Bandy, Deputy Director of Personnel Services

SUBJECT: Workers' Compensation, General Liability, and Medical Malpractice Programs Funding Policy

RECOMMENDED ACTION:

Approve revisions to the existing funding policy, beginning FY 2011-12 through FY 2021-22, to lower the funding confidence levels for the Workers' Compensation and General Liability Programs to 70%, add a 75% confidence level requirement to the Medical Malpractice Program, and re-amortize the deficit recovery for the Workers' Compensation Program over a ten (10) year period beginning in FY 2011-12.

Approval of the recommended action would result in specific changes to existing funding policy by funding two programs at lower confidence levels, adding funding requirements for a third program and increasing the deficit recovery period for the Workers' Compensation Program. These changes would result in decreased charges to Departments beginning in FY 2011-12. All other existing funding policy provisions would still be in effect.

ALTERNATIVE ACTION(s):

If the recommended action is not approved, these self-insured programs will be funded according to the existing Board policy, which directs the use of a confidence level range between 75% and 85% for the Workers' Compensation and General Liability Programs. The Medical Malpractice Program would continue to be funded at Risk Management's discretion as the existing policy does not address funding requirements for this program.

FISCAL IMPACT:

Approval of the recommended action would allow Risk Management to fund the Workers'

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Compensation and General Liability Programs at a 70% confidence level, which is 5% lower than the minimum required by the existing policy (75%). In addition, recovery of the \$15.7M projected June 30, 2011 deficit in the Workers' Compensation Program would be amortized over a new ten year period beginning with FY 2011-12. Funding of the Medical Malpractice Program would also be reduced from the generally applied 80% confidence level to 75%. Approval of this action will result in savings to County Departments of \$2.6 Million in FY 2011-12 through reductions in Workers' Compensation, General Liability, and Medical Malpractice Rates. The reduction in confidence levels applied to these three programs will result in additional savings to County Departments in future fiscal years through a reduction in future rates. The exact amount of the potential savings is unknown at this time as required funding levels vary from year to year based on numerous factors and the calculation is subject to actuarial studies performed each year. Although approval of the recommended action would reduce funding confidence levels used for all three programs, only the existing deficit in the Workers' Compensation Program would be amortized over a new ten (10) year period beginning with FY 2011-12. As a result, this program would continue to operate at a deficit through FY 2021-22. Assuming full compliance with the revised funding policy and all other factors remaining equal, the existing deficit would be eliminated by June 30, 2022.

IMPACTS ON JOB CREATION:

Approval of the recommended action will not have an impact on job creation.

DISCUSSION:

On April 29, 2003, your Board adopted a policy (2003 Funding Policy) which included provisions to fund the Workers' Compensation and General Liability Programs between a 75% and 85% confidence level on an actuarial basis each year. A Board Briefing Report dated April 22, 2003 was also issued in conjunction with the April 29, 2003 Agenda Item to provide additional information on these Risk Management programs. The 2003 Funding Policy did not define an acceptable funding level for the Medical Malpractice Program. Risk Management typically funded Medical Malpractice at an 80% confidence level which was 5% higher than the 75% minimum for General Liability because the County does not purchase excess insurance for Medical Malpractice. The 2003 Funding Policy included a method to recover the then existing \$17.7M deficit in the Workers' Compensation Program over a ten-year period beginning with FY 2003-04. Due to fiscal constraints and other factors, the 2003 Funding Policy was waived or modified by your Board during each fiscal year since its adoption, with the exception of FY 2005-06 and FY 2006-07.

A confidence level is an estimated probability that a given level of funding will be adequate to pay actual claims costs. For example, the 75% confidence level refers to an estimate for which there is a 75% chance that the amount of funding available will be sufficient to pay costs associated with current losses and estimated future losses. The CSAC-Excess Insurance Authority (EIA)'s standards suggest that members should maintain program assets for expected loss costs plus a reasonable margin for contingencies. This may translate to allowance for budgeting at a confidence level as low as 70%. Although this is actuarially considered to be a "marginally acceptable" funding posture, it is still within CSAC-EIA standards, while allowing for lower funding requirements which result in lower rates to County Departments during the existing economic downturn. One of the primary benefits of being self-funded for Workers' Compensation, General Liability, and Medical Malpractice is the flexibility it provides to your Board in adopting funding decisions and policies such as this one. Under the revised policy, referred herein as the "2011 Risk Program Funding Policy", the Workers' Compensation and General Liability Programs will be funded at a 70% confidence level, while the Medical

Malpractice Program would be funded at a 75% confidence level. Medical Malpractice would be funded at a 5% confidence level above Workers' Compensation and General Liability because the County does not currently have Excess Insurance coverage above a Self-Insured Retention (SIR) as in the case of the other two programs.

The Workers' Compensation, General Liability, and Medical Malpractice reserve requirements (program liability) are determined on an actuarial basis and take into consideration the liability for all outstanding claims plus the cost of future claims based on experience. The actuarial evaluation also looks at the County's cash position and then provides an estimate of how much the County should charge each year to recover a portion of any deficit based on the County's recovery policy. The current deficit in the Workers' Compensation Program began in 2000 when there were insufficient charges to cover the increasing costs of the program. As of June 30, 2010, the deficit in the Workers' Compensation Program was \$15.2 million. The most recent actuary report issued in December 2010 estimates that based on a 70% confidence level, the Workers' Compensation Program deficit will be approximately \$15.7 million at June 30, 2011.

As of June 30, 2010, no deficit existed in the General Liability or Medical Malpractice Programs. The actuary has projected a surplus of \$174,000 in the Medical Malpractice Program at June 30, 2011, which will be refunded to County Departments through a reduction in the FY 2011-12 medical malpractice rates. The actuary has also projected a deficit of \$230,000 in the General Liability Program at June 30, 2011, which will be fully recovered with the FY 2011-12 general liability rates. Although the recommended 2011 Risk Program Funding Policy will reduce funding confidence levels applied to the three programs, only the deficit in the Workers' Compensation Program would be re-amortized over a new ten (10) year period beginning with FY 2011-12.

The revisions to the existing Funding Policy will direct Risk Management to do the following:

- Fund the Workers' Compensation Program at a 70% confidence level each fiscal year from FY 2011-12 through FY 2021-22.
- Re-amortize the Workers' Compensation Program deficit (estimated to be \$15.7 million at June 30, 2011) over a ten (10) year recovery period beginning with FY 2011-12, eliminating the existing deficit by June 30, 2022.
- Fund the General Liability Program at a 70% confidence level each fiscal year from 2011-12 through 2021-22.
- Fund the Medical Malpractice Program at a 75% confidence level each year from FY 2011-12 through FY 2021-22. This program will be funded at 5% above Workers' Compensation and General Liability because the County does not currently purchase excess insurance above a Self-Insured Retention (SIR) for Medical Malpractice.

All other provisions of the 2003 Funding Policy will remain in effect.

REFERENCE MATERIALS:

BAI #15, April 29, 2003

BBR, Workers' Compensation and General Liability Programs, dated April 22, 2003