# Agenda Item

MAY 1 2 2003

RISK MANAGEMENT

DATE: April 29, 2003

TO: Board of Supervisors

FROM: Ralph Jimenez, Director of Personnel Services Ralph Jimenez

SUBJECT: Self-Insured Workers' Compensation and General Liability Programs – Policy Direction

RECOMMENDED ACTION:

**Adopt the recommended Workers' Compensation and General Liability program and funding policies set forth on Exhibit "A", effective July 1, 2003.**

The recommended program and funding policies are intended to reduce workers' compensation and general liability exposure and provide a stable funding source that takes into account fluctuating fiscal conditions. In addition, these recommendations are consistent with those set forth in the Board Briefing Report dated April 22, 2003. These actions do not increase County cost for FY 2002-03.

FISCAL IMPACT:

The recommended actions do not increase County cost for FY 2002-03. For FY 2003-04, the estimated increased cost for implementing these recommendations is $4.4 million. Of this amount, County departments would be charged $1.6 million while the remaining $2.8 million would be funded through Risk Management Fund retained earnings associated with the Medical Malpractice and Out of Area Health programs.

DISCUSSION:

Workers' Compensation Program:

Workers' Compensation requirements for all California employers are set forth in the California Labor Code. Included among these requirements is the purchase of insurance to provide the extensive system of benefits established by law. In the alternative, employers may elect to be "permissibly uninsured", which allows employers to set up systems to manage and fund claims outside the terms of a standard insurance arrangement.

ADMINISTRATIVE OFFICE REVIEW

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BOARD ACTION: DATE April 29, 2003 APPROVED AS RECOMMENDED X OTHER ____

UNANIMOUS X ANDERSON ____ ARAMBULA ____ CASE ____ LARSON ____ WATERSTON ____

In July 1966, the County of Fresno became one of the first public agencies in California to self-insure its workers' compensation claims. Presently, the County self-insures claims up to $500,000 per claim. Coverage for exposure above $500,000 is provided through a risk pool agreement with the California State Association of Counties – Excess Insurance Authority (CSAC – EIA). In addition, the County contracts with a third party administrator, currently Pegasus Risk Management, to provide claims administration services.

Under the self-insured approach, each fiscal year County departments are assessed a payroll-driven charge to fund anticipated workers' compensation claims. This assessment is based on two perspectives. The first entails an actuarial analysis of the projected cost of claims for the upcoming fiscal year. This approach attempts to fund claims in the fiscal year in which they actually occur.. To achieve this, the actuary estimates the number and cost of new claims and applies an adjustment factor to account for the cost of current claims in future dollars. The adjustment factor or "confidence level" is represented as a percentage usually between 70% and 90%. The confidence level represents how confident the actuary is that a given funding level or assessment will be adequate to pay actual claims experience. Consequently, the higher the confidence level or percentage, the more likely the funding level will match actual costs. The County's current confidence level is set at 85%. (As a point of reference, CSAC-EIA's requirement for participation in their Excess Liability Workers' Compensation Program is a minimum confidence level of 70%. The actuary, however, considers a 70% level to be marginally acceptable and recommends a confidence range of 75% to 85%.) The second analysis performed by the actuary results in a cost estimate of the total outstanding program liability (claims incurred in prior fiscal years with outstanding liability). Based on these two perspectives, the actuary provides both fiscal year and program funding recommendations.

The Auditor-Controller/Treasurer-Tax Collector (A-C/T-TC), along with input from the Personnel Services Department, refines the actuary's estimates and makes recommendations to the County Administrative Officer (CAO) regarding program funding/rate levels. These recommendations are ultimately incorporated in the fiscal year budget development process. Historically, the CAO has either adopted the funding levels as recommended by the A-C/T-TC or has established a different funding approach based on factors such as loss experience, retained earnings from prior fiscal years and overall budgetary considerations.

Listed below is a chart of funding levels recommended by the CAO and adopted with the approval of the County's budget over the past four fiscal years.

| Fiscal Year | A-C/T-TC Recommendation | CAO's Revision | Variance (Negative Variance) |
|---|---|---|---|
| 99-00 | $5,896,484 | $4,350,000 | ($1,546,484) |
| 00-01 | $8,047,778 | $4,900,000 | ($3,147,778) |
| 01-02 | $12,449,064 | $8,936,027 | ($3,513,037) |
| 02-03 | $21,252,643 | $10,500,000 | ($10,752,643) |
| | | Total Variance | ($18,959,942) |

During this period, it was anticipated that both fiscal year and program costs would remain relatively constant and there was the potential to experience retained earnings. However, while claims experience remained constant, the State legislature substantially increased both temporary and permanent disability benefits as well as medical fees charged by physicians. In addition, the absence of a meaningful return-to-work program stifled the County's efforts to effectively return injured employees back to work, which would have minimized both fiscal year and overall program costs. Furthermore, the County continued to maintain the 85% confidence level policy leading the A-C/T-TC to recommend higher funding approaches. As a result, over the past four fiscal periods the County has under-funded, from an actuarial perspective, both fiscal year and program costs and is now faced with an unfunded liability, or deficit.

Recently, the County's external auditor, along with the CSAC-EIA and the County's actuary, have expressed concerns that the absence of sound funding policies that adequately address yearly claims experience and overall program costs could lead to greater program instability and a negative financial rating. Consequently, it is imperative that these funding issues be addressed and that stable, yet flexible, funding policies be implemented to address the situation. The program and funding policy recommendations presented on Exhibit "A" are intended to achieve this objective. Equally as important, these recommendations are intended to provide your Board flexibility to respond to fiscal limitations/challenges presented in any given fiscal year.

General Liability Program:

The County began its Self-Insured General Liability Program on June 1, 1976. Its current self-insured retention is $750,000 per claim. Coverage from $750,000 to $10,000,000 per claim is provided through a risk pool agreement with CSAC-EIA.

Each fiscal year, County departments are assessed an annual charge to fund anticipated liability claims. As with the Workers' Compensation program, this assessment is based on the same two perspectives (anticipated fiscal year claims and total outstanding liability claims). Similarly, the A-C/T-TC, along with input from the Personnel Services Department, refines the actuary's estimates and makes recommendations to the CAO regarding program funding/rate levels. Again, the CAO has either adopted the funding levels as recommended by the A-C/T-TC or has established a different funding approach based on factors such as loss experience, retained earnings from prior fiscal years and overall budgetary considerations.

Unlike the Workers' Compensation Program, the General Liability Program has experienced favorable loss experience and continued retained earnings. As a result, the County's actuary anticipates, as of June 30, 2003, this program will be funded above the 85% confidence level. The program and funding policy recommendations presented on Exhibit "A" take into account this favorable experience and permit your Board to take a less conservative, yet responsible, approach to funding. In particular, the establishment of a mandatory loss prevention training program should lead to fewer claims and risk exposure. These approaches should prove helpful as the County responds to fiscal challenges over the next several fiscal years.

Program and Funding Policy Recommendations:

In approving the recommendations set forth on Exhibit "A", your Board will achieve the following:

- A sound and flexible funding strategy that will provide/enhance Workers' Compensation and General Liability program stability while permitting the County to respond to fiscal challenges/limitations in any given fiscal year.
- A reduction in Workers' Compensation program costs by returning employees back to work in the most cost effective/efficient manner.
- Reduce exposure to Workers' Compensation and General Liability claims by training employees, in particular first-line supervisors and managers, regarding County policies and procedures, management and administrative directives, federal/state laws and regulations, and other areas where claims exposure and costs have been experienced (e.g., job safety, wrongful termination, employment discrimination and harassment, reasonable accommodation, etc.).

OTHER AGENCY INVOLVEMENT:

The County Administrative Officer and the Auditor-Controller/Treasurer-Tax Collector have reviewed and support the recommendations presented on Exhibit "A".

RJ:lu

EXHIBIT "A"

**POLICY DIRECTION AND PROGRAM FUNDING RECOMMENDATIONS**

## WORKER'S COMPENSATION PROGRAM

| Program Policy | Funding Source |
|---|---|
| 1. Fully fund each fiscal year's estimated claims/ program cost (either through rate increases and/or use of retained earnings, if any). | Annual charges to departments based upon actuarially determined claims and liability cost projections. (FY 03-04 Increased Cost: $2.6M) |
| 2. Adopt a flexible "confidence level" policy to permit annual program funding within a confidence range of 75% to 85%, based on anticipated fiscal conditions. (FY 03-04: 75%) | Not applicable |
| 3. Amortize the anticipated June 30, 2003 program deficit ($17.7M) over ten (10) years beginning with FY 03-04. (Note: Any remaining program deficit would be amortized over the remaining amortization period, e.g., nine (9) years, eight (8) years, etc.). | To be determined each fiscal year during budget deliberations. (FY 03-04 Increased Cost: $1.8M) |
| 4. Authorize the CAO, via Board of Supervisors' Administrative Policies and Management Directives, to implement an aggressive Return to Work Program, administered through the Department of Personnel Services. | Not applicable |

## GENERAL LIABILITY PROGRAM

| | |
|---|---|
| 1. Fully fund each fiscal year's estimated claims/ program cost (either through rate increases and/or use of retained earnings, if any). | Annual charges to departments based upon actuarially determined claims and liability cost projections. (FY 03-04: No net increased cost.) |
| 2. Adopt a flexible "confidence level" policy to permit annual program funding within a confidence range of 75% to 85%, based on anticipated fiscal conditions. (FY 03-04: 75%) | Not Applicable |
| 3. Authorize the CAO, via Board of Supervisors' Administrative Policies and Management Directives, to implement a Mandatory Loss Prevention Program, administered through the Department of Personnel Services. | Program costs to be incorporated into the General Liability Program operating plan and included in annual charges to departments. (FY 03-04: $500K funded via retained earnings; no net increased cost.) |