**CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY**

**SPECIAL EXECUTIVE COMMITTEE - ZOOM**
**Tuesday November 14, 2023, 10:00 A.M.**

**CJPRMA**
**3201 Doolan Road, Suite 285**
**Livermore, CA 94551**
**(925) 837-0667**

**MEETING LINK**:

**https://us02web.zoom.us/j/85885007228?pwd=cms5RWpReEhGVitOTlRqK29BVFRwdz09&from=addon**

**MEETING NUMBER**: **858 8500 7228** **PASSWORD**: **138569** **PHONE**: **1-669-900-6833**

1. City of Lodi, 221 West Pine Street, Lodi, CA 95240
2. NCCSIF, City of Oroville, 1735 Montgomery Street, Oroville CA 95965
3. LPFD, City of Pleasanton, 123 Main Street, Pleasanton, CA 94566
4. City of San Rafael, 1400 Fifth Avenue, San Rafael, CA 94915
5. City of Santa Rosa, 100 Santa Rosa Avenue, Room 9, Santa Rosa, CA 95404
6. City of Fremont, 3300 Capital Avenue, Fremont, CA 94537
7. YCPARMIA, 77 W. Lincoln Avenue, Woodland, CA 95695
8. Gibbons & Conley, 3480 Buskirk Avenue, Suite 200, Pleasant Hill, CA 94523

## AGENDA

**I. CALL TO ORDER**

**II. ROLL CALL**

**III. CLOSED SESSION**

**IV. ACTION ON CLOSED SESSION**

**V. PRESENTATIONS**

**VI. THIS TIME IS RESERVED FOR MEMBERS OF THE PUBLIC TO ADDRESS THE EXECUTIVE COMMITTEE ON MATTERS OF EXECUTIVE COMMITTEE BUSINESS**

*Per Government Code section 54954.2, persons requesting disability-related modifications or accommodations, including auxiliary aids or services in order to participate in the meeting, are requested to contact CJPRMA at (925) 837-0667 24 hours in advance of the meeting.*

## VII. COMMUNICATIONS

1. Executive Committee Members
2. General Manager/Secretary
3. Next Scheduled Meetings: Board of Directors (12/14/23) CJPRMA
   Executive Committee (01/18/24) Santa Rosa, CA

## VIII. APPROVAL OF MINUTES - None

## IX. CONSENT CALENDAR - None

## X. ACTION (A) AND INFORMATION (I) CALENDAR

1. Cash Assessment for Liability Program (I) (Pages 3- 7)

## XI. ADJOURNMENT

*Per Government Code section 54954.2, persons requesting disability-related modifications or accommodations, including auxiliary aids or services in order to participate in the meeting, are requested to contact CJPRMA at (925) 837-0667 24 hours in advance of the meeting.*

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# CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY

## AGENDA BILL

| ITEM: 1 | TITLE: CASH ASSESSMENT FOR LIABILITY PROGRAM |
|---|---|
| MEETING: 11/14/2023 | |
| GENERAL MANAGER: A.B.G. | |

**Recommended Actions**

Approve proposal for cash assessment and forward to the Board of Directors with the Executive Committee's recommendation to approve.

**Strategic Direction**

Strategic Goal #1: "Be in a positive net position by June 30, 2025."

**Item Explanation**

How We Got Here

Beginning with program year 2018/19, CJPRMA began to experience a steady decline in its net position in the liability program. The table below shows the net position for the program as a whole as of the end of program years 2017/18 through 2021/22. The net position includes the assets in the ELF, which is described below.

| Evaluation Date | Net Position |
|---|---|
| 6/30/2018 | $22,052,565 |
| 6/30/2019 | $4,059,956 |
| 6/30/2020 | ($5,153,964) |
| 6/30/2021 | ($23,315,095) |
| 6/30/2022 | ($33,351,480) |

There were several reasons for the decline. First, the claims environment in California changed significantly, with higher verdicts becoming more prevalent, which also resulted in higher settlements. Changing public sentiment regarding law enforcement, social inflation, and third-party litigation funding all contributed to this. Also, CJPRMA had developed an actuarial method that used a ten-year rolling average of claims to determine funding rates for the liability program. This provided consistency and smoothing for pool members, but it was not sufficient to quickly adapt to a changing environment. In 2018, CJPRMA hired a new general manager and claims administrator. During the first year of their tenure, they discovered that many claims had reserves that were not adequate for the new environment. During her first year at the pool, the claims administrator reviewed and updated reserves on all open claims. This was an important task, but it resulted in recognition of higher liabilities for the pool. Verdicts and case settlements subsequently reinforced these estimates.

The Board of Directors recognized that it needed to take action to address the eroding equity position of the pool. At its December 10, 2020, meeting the Board approved a three-year program to address the net position. These were the items approved by the Board.

- PY 2021/22 return to the conventional "ground up" method of funding.
- PY 2021/22 decrease the discount rate from 2% to 1%, review annually.
- PY 2021/22 increase the confidence level to 75%.
- PY 2022/23 eliminate the $500,000 SIR.
- PY 2022/23 increase the confidence level to 80%.
- PY 2023/24 increase the confidence level to 85%.

Prior to 2020, the Board had approved applying excess equity to program years with negative equity rather than issuing redistributions. Also, the pool kept investment income in the program rather than using it to reduce premium.

Pool staff and the Board of Directors had hoped that these efforts would be sufficient to avoid the need for an assessment in the liability program. The continued decrease in the net position indicates that these changes alone have not been enough. These changes are important, and they should help the pool collect adequate contributions for the liability program in the future, but it has not had much impact on the past.

At its strategic planning meetings in October 2022, the Board of Directors identified "Be in a positive net position by June 30, 2025" as its number-one strategic priority. On December 12, 2022, the Board approved the strategic plan with that priority.

<u>Assessment</u>
The CJPRMA by-laws defines a cash assessment as "an amount determined by the *Board of Directors* to be paid by each member entity as necessary to meet the *Authority's* obligations." The bylaws continue, "A two-thirds vote of the entire Board is required to levy a cash assessment for any pooled coverage program."

Article XII of the by-laws addresses assessments.

> "Upon a two-thirds vote of the *entire Board*, the *Board* shall have the authority to levy a *cash assessment* for any *pooled coverage program*. There must be a finding by the *Board* that there are insufficient funds available to the *Authority* to meet its legal obligations.

A *cash assessment* shall be directed only to those *member entities* or former *member entities* which participated in the *pooled coverage program* during the *program year* in which the *covered loss*, causing the assessment, was incurred.

Any costs, including attorney fees incurred by the *Authority* in collecting any *cash assessment*, shall be reimbursed in full by the *member entity* against which such collection action has been taken."

Article XVIII of the CJPRMA Joint Powers Agreement also addresses assessments.

"The *Board* by a two-thirds vote of the entire body shall have the authority to levy a *cash assessment* upon a determination that it is necessary to meet the *Authority's* obligations.

All *cash assessments* shall be determined and payable in accordance with the policy contained in the Bylaws."

The Joint Powers Agreement also discusses the effect of assessments on former members of the pool. Former members of the pool are still responsible to pay any cash assessment for program years in which they participated.

"The withdrawal or expulsion of any *member entity* after the inception of its participation in the *Authority* or any *pooled coverage program* shall not terminate its responsibility:

A. to cooperate fully with the *Authority* in determining the cause of losses and in the settlement of *claims* incurred during the coverage period, as defined in the *Memorandum of Coverage*;

B. to pay any cash assessments or other amounts determined by the *Board* to be due and payable for each *program year* of each program in which it participated until all *claims*, or other unpaid liabilities, covering such periods have been finally resolved;"

**Excess Loss Fund**

The CJPRMA bylaws define an Excess Loss Fund (ELF) intended to be used to pay for deficit years. Here is the language from the bylaws:

For Program Years 2008-2009 and following, the Authority will establish an Excess Loss Fund that will be used to provide funds in the event losses, loss adjustment expenses, and defense costs expended for any program year exceed the amount of cash contributions (and any interest earnings thereon) for loss funding for that program year. Payments from the Excess Loss Fund will not be charged back to the program year nor will the payments result in any assessment against program year members but will instead act as a form of "stop loss" for the loss fund for that program year.

The pool did not use the ELF as intended, and it still has a value of $19,470,554. $89,969 of that value is equity for the City of Pomona. Pomona is a former member that contributed to the ELF. However, Pomona left CJPRMA before any of the deficit years for which we plan to assess. That means that $19,384,585 is available for use to apply to any deficit years.

**Cash Assessment Proposal**

As shown in the table above, the deficit as of June 30, 2022, was $33,351,480. Staff selected program years 2012/13 through 2016/17 for the potential assessment. All of these years are currently in deficit, and the total amount of deficit for those program years is $33,630,917, which closely aligns with the current deficit. Former members City of Vallejo and REMIF participated in all these program years and would be subject to the assessment. The general manager has contacted both agencies to inform them of the likelihood of a future assessment.

Following the June 2023 Board of Directors meeting, the Board President appointed an ad hoc committee to make recommendations for a possible assessment. The committee met several times since July and developed a proposal for the Executive Committee's review. Here are the elements of that proposal.

- Assess the deficit years 2012/13 through 2016/17.
- Use the available funds in the Excess Loss Fund to reduce deficit in those years.
- Approve an assessment for the amount remaining after application of the ELF.
- After application of the ELF, the deficit in the selected years will still be approximately $14 million, to be assessed effective July 1, 2024.
- Allow members to pay in as many as three years in equal annual installments due July 1 of each year.
- Provide a discount of 5% for members who pay immediately. As of 10/11/2023, Chandler Asset Management's money market sweep was yielding 4.97%, and T-Bills were estimated to be returning 5.40%.
- This assessment will only address these years, and CJPRMA will still have deficit years remaining that will mean that CJPRMA will still have a negative net position. The remaining negative net position will be approximately $19 million.
- The pool will monitor the net position to evaluate improvement to the net position based on current funding. This evaluation period will continue until June 2025. At that time, the pool will decide whether a second assessment is needed. The years for possible assessment are likely to be 2017/18 and 2018/19.

The intent of handling the assessment in two phases is to ease the financial burden on members. From program year 2021/22 through program year 2023/24, CJPRMA has increased its confidence level for funding from 70% to 85%. The hope is that surplus generated from this period will offset some of the 2017/18 and 2018/19 deficits and minimize or eliminate the need for a second assessment. Along with increasing verdicts/settlements and a rise in reinsurance costs, members have already faced steadily increasing premiums. The recommended approach attempts to strike a balance between addressing the current deficit and keeping costs as reasonable as possible for members.

If an assessment is ultimately approved by the Board of Directors, the ad hoc committee suggests that the general manager write a memo that Directors can share with finance and executive management at their agencies.

Also, if an assessment is approved, CJPRMA staff will review current reserves for accuracy and review the values for the deficit years so that the pool assesses with the most current and accurate information available.

Staff provided the draft proposal to the Executive Committee in advance of the November 14, 2023, meeting. Here are some suggestions that were provided.

- Include information on how much money was returned to members as redistribution over the years.
- Add discussion of the member loss ratio and surcharge policy, including the amount that has been collected since the implementation of the policy. The surcharge was first collected in July 2022, and a total of $4,451,054 has been collected to date. In July 2024, the pool will collect $3.5 million - $5 million.
- Add information regarding other California pools that have had to implement assessments over the last few years.

Also, some revised language was proposed, and those items are indicated in red text throughout.

**<u>Fiscal Impact</u>**

The amount to be assessed for deficit years 2012/23 through 2016/17 will be approximately $14 million. The actual amount will be calculated based on current reserves and net position just prior to the assessment.

**<u>Exhibits</u>**

None