CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY

WEBEX EXECUTIVE COMMITTEE MEETING
Thursday June 18, 2020 2:00 P.M.

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

This meeting is being held in accordance with the Brown Act as currently in effect under the State Emergency Services Act, the Governor's Emergency Declaration related to COVID-19, and the Governor's Executive Order N-29-20 issued on March 17, 2020 that allows attendance by members of the City Council, City staff, and the public to participate and conduct the meeting by teleconference, videoconference, or both.

MEETING LINK:

https://cjprma.my.webex.com/cjprma.my/j.php?MTID=m0c93a2dae882f01dc602e8209a218959

MEETING NUMBER: **126 096 6378** **PASSWORD**: **u2sGXU8M2x9**

JOIN BY PHONE: **1-510-338-9438** **ACCESS CODE**: **126 096 6378**

AGENDA

I. CALL TO ORDER: 2:00 P.M.

II. ROLL CALL

III. ACTION ON CLOSED SESSION

IV. PRESENTATIONS

- None

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

VII. COMMUNICATIONS

1. Executive Committee Members
2. General Manager/Secretary
3. Next Scheduled Meetings: Board of Directors (08/20/20) CJPRMA/Remote
   Executive Committee (09/17/20) TBD

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.

VIII. APPROVAL OF MINUTES

- Minutes of the Executive Committee meeting held October 8, 2019 and January 16, 2020. (Pages 3 - 9)

IX. CONSENT CALENDAR

1. Status Update on General Manager's Goals & Objectives ***(I)*** (Pages 10- 13)
2. Business Calendar for 2020 ***(I)*** (Pages 14- 16)

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

3. Approve Modifications to Liability Memorandum of Coverage Related to Duties of Covered Parties ***(A)*** (Pages 17 - 18)
4. Adopt a Resolution on the Interpretation of the Definition of Occurrence for Sexual Abuse and Molestation Claims ***(A)*** (Pages 19 - 24)
5. Property Program Coverage for Losses due to Coronavirus ***(I)*** (Pages 25 - 36)
6. Consider Exclusion in Liability Memorandum of Coverage for Communicable Disease ***(I)*** (Pages 37 - 38)
7. Consider Exclusion in Liability Memorandum of Coverage for Power Generation ***(I)*** (Page 39)
8. Recommend Approval of a Board Policy on the Treatment of Flat Fee Costs for Third Party Administrators ***(A)*** (Pages 40 - 42)
9. Succession Planning for the Finance Officer Position ***(I)***(Page 43)
10. Approval of Salary Adjustment for the General Manager ***(A)*** (Page 44)
11. Risk Management Issues ***(I)*** (Page 45)

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.

CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY

TELEPHONIC EXECUTIVE COMMITTEE MEETING
Tuesday October 8, 2019 10:00 A.M.

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

Dial In # 866-866-2244
Participant Code: 1414792

1. *City of Chico, 411 Main Street, Chico, CA 95927*
2. *City of Livermore, 1052 S. Livermore Avenue, Livermore, CA 94550*
3. *REMIF, City of Sonoma, 414 West Napa Street, Sonoma, CA 95476*
4. *City of Richmond, 450 Civic Center Plaza, Richmond, CA 94804*
5. *City of Roseville, 311 Vernon Street, Roseville, CA 95678*
6. *SCORE, Town of Loomis, 3665 Taylor Road, Loomis, CA 95650*
7. *City of Stockton, 400 E. Main Street, Stockton, CA 95202*
8. *City of Sunnyvale, 505 West Olive Avenue #200, Sunnyvale, CA 94086*
9. *Gibbons & Conley, 3480 Buskirk Avenue, Suite 200, Pleasant Hill, CA 94523*
10. *CJPRMA, 3201 Doolan Road, Suite 285, Livermore, CA 94551*

MINUTES

I. CALL TO ORDER: President Greer called the meeting to order at 10:02 A.M.

II. ROLL CALL

PRESENT

1) Jamie Cannon, *Chico*
2) Amy Northam, *REMIF*
3) Kim Greer, *Richmond*
4) David Rawe, *Roseville*
5) Roger Carroll, *SCORE*
6) Gail Kiyomura, *Stockton*
7) Scott Mann, *Sunnyvale*

OTHERS PRESENT

8) Tony Giles, *CJPRMA*
9) Marinda Griese, *CJPRMA*
10) Lola Deem, *CJPRMA*
11) Saima Kumar, *CJPRMA*
12) Marcia Hart, *CJPRMA*
13) Susanna Banuelos, *CJPRMA*
14) Byrne Conley, *Board Counsel*

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.

III. CLOSED SESSION

1. **<u>Government Code Section 54956.95 (a)</u>**
   Conference with Legal Counsel – Litigation
   Name of Case: Peng Huang, Wenchang Song, Shuping Gao, Naibo Tao v. Judy Chong; City of Stockton
   Court: State of California Superior Court, County of San Joaquin
   Case No.: STK-CV-UAT-2017-0009963

IV. ACTION ON CLOSED SESSION

- The Executive Committee conferred with staff regarding litigated claims and provided direction.

V. PRESENTATIONS

- None

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

VII. COMMUNICATIONS

1. Executive Committee Members
2. General Manager/Secretary
3. Next Scheduled Meetings: Board of Directors (10/22 & 23/19) CJPRMA
   Board of Directors (11/21/19) CJPRMA
   Executive Committee (01/16/20) Loomis, CA

VIII. APPROVAL OF MINUTES

- A motion was made by Director Rawe and seconded by Director Northam to approve the minutes from the Executive Committee meeting held on June 20, 2019. Directors Cannon, Greer, Carroll, Kiyomura and Mann approved the motion. Motion passed.

IX. CONSENT CALENDAR

1. **Status Update on General Manager's Goals & Objectives *(I)***
2. **Business Calendar for 2019 & 2020 *(I)***

- A motion was made by Director Northam to accept the consent calendar and seconded by Director Cannon. Directors Greer, Rawe, Carroll, Kiyomura and Mann approve the motion. Motion passed.

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

3. **Salary Survey for CJPRMA Staff *(A)***
   The general manager asked for authority to enter into a contract with a third-party vendor to conduct a salary survey for CJPRMA classifications. The Executive Committee discussed the JPA should mirror the member entities and have the survey done internally.

- A motion was made by Director Cannon to have CJPRMA staff collect salary data and have Human Resources experts within our Board of Directors review the survey, the motion was seconded by Director Mann. Directors Northam, Greer, Rawe, Carroll and Kiyomura approved the motion. Motion passed.

4. **Approve Revisions to CJPRMA Retiree Health Benefit *(A)***
   The general manager recommended approval of revisions to the CJPRMA Retiree Health Benefit. The Executive Committee and Board Counsel discussed clarifying some of the language in the document.

   - No action was taken. This action item was tabled until the 1/16/2020 meeting. President Greer suggested the general manager provide options by rewriting and defining some of the wording.

5. **Member Meetings *(I)***
   - This was an information item only. The general manger was directed to lead the JPA members within his authority determine. It was suggested that regular phone calls take place with members, and, if needed, the general manager can schedule meetings.

6. **2017-2019 Strategic Plan and Update on Strategic Planning Sessions *(I)***
   The general manager has scheduled Strategic Planning for October 22-23, 2019 with the Board of Directors. Rick Brush of Brush Strokes Consulting will facilitate the sessions. Mr. Brush has completed an online survey of the Board of Directors, and he will be contacting the Executive Committee members individually by phone.

   - No action is required on this information only item.

7. **Discussion of Possible Services *(I)***
   The general manager discussed several possible services with the Executive Committee.

   - No action is required on this information only item.

8. **Risk Management Issues *(I)***
   - No risk management issues were presented to discuss.

XI. ADJOURNMENT

- President Greer adjourned the meeting at 11:36 A.M.

CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY

EXECUTIVE COMMITTEE MEETING
Thursday January 16, 2020 10:00 A.M.

Loomis Depot Building
5775 Horseshoe Bar Road
Loomis, CA 95650
Small Conference Room
916-652-6843

MINUTES - DRAFT

I. CALL TO ORDER

- President Greer called the meeting to order at 10:00 A.M.

II. ROLL CALL

PRESENT

1) Amy Northam, *REMIF*
2) Janet Hamilton, *Livermore*
3) Kim Greer, *Richmond*
4) David Rawe, *Roseville*
5) Roger Carroll, *SCORE*
6) Gail Kiyomura, *Stockton*
7) Scott Mann, *Sunnyvale*

OTHERS

Tony Giles, CJPRMA

ABSENT

1) Jamie Cannon, Chico

III. PRESENTATIONS

- None

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

V. COMMUNICATIONS

1. Executive Committee Members
2. General Manager/Secretary
3. Next Scheduled Meetings: Board of Directors (03/19/20) CJPRMA

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.

VI. APPROVAL OF MINUTES

- A motion was made by Director Northam and seconded by Director Rawe to approve the minutes from the Executive Committee meeting held on October 8, 2019. Directors Northam, Greer, Rawe, Carroll and Kiyomura approved the motion. Motion passed.

VII. CONSENT CALENDAR

1. Business Calendar 2020 ***(I)***

- No action is required on this information only item.

VIII. ACTION *(A)* AND INFORMATION *(I)* CALENDAR

2. Approve Revisions to CJPRMA Retiree Health Benefit ***(A)***

The general manager reviewed that CJPRMA's actuary asked the Finance Officer several questions when reviewing the retiree health benefit document. The proposed revisions would reflect responds to those questions and provide clarity as to intent.

Additionally, at the October 10, 2019 Executive Committee meeting, the Executive Committee requested that the general manager bring the policy back with revisions to replace references to "husband and wife" with "spouses and domestic partners." Also, they requested the addition of reimbursement of premium for dependents other than spouses and domestic partners. CalPERS health care benefits have one premium for retiree plus two or more dependents, so including reimbursement for that has the same cost as providing reimbursement for a spouse/domestic partner and one other dependent.

The proposed revisions would:

- Clarify that only a retirement into the CalPERS system qualifies for the benefit.
- Clarify the intent that disability retirements be covered and not "industrial disability retirements." Only safety employees qualify for industrial disability retirements.
- Clarify that the benefit will be 100% reimbursement for disability retirements.
- State that the retiree must provide evidence of premium payment in order to receive reimbursement.
- Clarify that a surviving spouse/domestic partner will receive the lesser of 50% of the reimbursement at the time of death or the total premium.
- Replace references to "husband and wife" with "spouses and registered domestic partners."

- Include reimbursement for dependents other than spouses and domestic partners.

A motion was made by Director Carroll and seconded by Director Kiyomura to approve the proposed revision to the CJPRMA Retiree Health Benefits document. Directors Northam, Greer, Rawe, Carroll and Kiyomura approved the motion. Motion passed.

3. Approve Revisions to Board Policy B21 - Expense Reimbursement for CJPRMA for Board Members/Alternates and Staff ***(A)***

Currently, Board policy B21 states, "CJPRMA will reimburse its members for the cost of having one representative from each member entity attend a risk management related conference in lieu of attending the CAJPA or PARMA Annual Conference." The policy provides a list of pre-approved conferences eligible for reimbursement and says that requests to expand the list will be submitted to the Executive Committee for Approval.

Director Cecilia Quiambao, City of Petaluma has requested that the Disability Management Employer Coalition (DMEC) annual conference be added to the list of pre-approved conferences eligible for reimbursement. DMEC offers workshops and sessions which are consistent with other conferences currently on the list. Some of the topics offered are FMLA/ADA workplace compliance, claims management, workers' compensation, risk and litigation management, and occupational health & safety. Losses related to disability discrimination are a concern for CJPRMA, and there will be value to the pool if members attend this conference.

- A motion was made by Director Northam and seconded by Director Kiyomura to approve the addition of DMEC to Board Policy B21. Directors Northam, Greer, Rawe, Carroll and Kiyomura approved the motion. Motion passed.

4. Risk Management Issues ***(I)***

The Executive Committee discussed the following topics:

1) Continuity of Operations Planning (COOP) – Scott Mann, Sunnyvale

2) Information & Technology vendor contracts – Janet Hamilton, Livermore

3) Traffic signals during PG&E Public Safety Power Shutoff's (PSPS's) – Chris Carmona, Fairfield

4) Does anyone have written or informal guidelines on what Risk Management funds should/can be used for? How do entities handle calls about bike lane safety concerns? (Log?) What is an appropriate response? – Kim Greer, Richmond

5) Coverage for wildfire losses due to downed power lines (or the like) for cities with

utilities – Amy Northam, REMIF

6) Pooled deductible buy-down for property losses and applicability to flood losses – Amy Northam, REMIF

7) Insurance requirements matrix – Tony Giles, CJPRMA

- No action is required on this information only item.

IX. CLOSED SESSION

1. **Government Code Section 54957**
   Public Employee Performance Appraisal

   Title: General Manager

2. **Government Code Section 54957.6**
   Conference with Labor Negotiator

   Agency Designated Representative: Kim Greer, President
   Unrepresented Employee: Tony Giles, General Manager

X. ACTION ON CLOSED SESSION

- The Executive Committee delegated authority to the Board President, Kim Greer, to deliver the general manager's performance evaluation and negotiate a salary adjustment at a later date.

XI. ADJOURNMENT

- The meeting was adjourned at 1:12 P.M.

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: STATUS UPDATE ON GENERAL MANAGER'S GOALS & OBJECTIVES**
MEETING: 06/18/2020	
GENERAL MANAGER: ABG	

Recommended Actions
None. This item is being provided to the Board of Directors as an update on the general manager's 2020 Goals and Objectives.

Strategic Direction
All CJPRMA strategic goals adopted by the organization.

Item Explanation
The general manager's Goals and Objectives for 2020 were created to identify the areas of priority in meeting the objectives of the adopted strategic plan. The Board of Directors developed the current strategic plan in October 2019.

This item is being provided as an information item only and no formal action is required.

Fiscal Impact
None

Exhibits
1. General Manager's Goals & Objectives 2020

GENERAL MANAGER GOALS & OBJECTIVES FOR 2020

GOALS	OUTCOMES	TASKS COMPLETED
Determine if CJPRMA is an excess pool, a full-service pool or a hybrid. Priority 1.27 **20%**	• Conduct a cost benefit analysis to include breaking out the cost of services. • Conduct a needs assessment regarding services. • Consider cost allocation strategies – Research alternative models.	• Established a pass-through contract with Bob Marshburn for the provision of risk transfer consulting services to members. • Established a pass-through contract with FACS for the provision of industrial hygiene and environmental health consulting services. • **Scheduled informational webinar with FACS regarding general services and return-to-work services.**
Analyze creating a captive. Priority 1.56 **20%**	• Internal analysis of our position, including overall funding, net assets, payout duration, etc. • Environmental scan – investigate what other JPAs have learned while creating a captive. • Recommend go or no go of conducting a feasibility study based on above. • Recommendation to the Board of go or no go based on the feasibility study recommendations. • Form a captive if it is considered favorable.	• Established Captive Committee. • Met with Captive Committee to consider timing of captive development. • Report out to Board of Directors on 3/24/2020.
Evaluate premium allocation. Priority 1.6 **20%**	• Consider utilization of ex mod factors. • Consider utilizing corridor deductibles, quota shares, SIRs, credibility factors. • Board members will first need to be educated on these risk finance tools. • Consider utilizing higher SIRs for specific risk (wildfire, EQ, flood). • Review the member loss history policy.	• Had Aon actuaries provide information on use of ex mods at the November 2019 meeting.

GOALS	OUTCOMES	TASKS COMPLETED
100% member retention. Priority 2.21 **10%**	• Develop an internal marketing plan. • Develop a communications plan. • Must have competitive rates.	• Working with brokers on renewal planning for 2020/21 program year to get the best rates possible for all programs. **Presented renewal proposal to Board of Directors at May meeting.** • Scheduled member meetings and phone calls for all members that want them. • Copy Board of Directors on all Executive Committee agendas to keep them informed. • Copy Alternates on Board of Directors communications (other than Watch List) to keep them informed and engaged. • Met with claims committee on 1/9/2020 with a report out to the Board of Directors on 3/31/2020.
Evaluate options to increase pool equity. Priority 2.26 **10%**	• Review target equity policy. • Review industry financial ratios and consider implementing. • Review investment policy. • Form captive to increase investment income. • Review 10-year rolling average policy. • Consider narrowing coverage and increasing SIRs in specific risk areas.	• Began evaluation of formation of captive. • Proposed increased member retentions for the liability program. **New retention options approved for members at May Board of Directors meeting.**

GOALS	OUTCOMES	TASKS COMPLETED
Enhance existing training programs. Priority 2.28 **10%**	• Conduct a member needs assessment. o Determine individual member needs. o Analyze the JPA and individual member's loss drivers. o Include staff intuition based on working with members. • Focus on emerging risk. • Evaluate delivery mechanisms. o Staff driven or utilize an outside service provider to create: ▪ In-person training. ▪ Online training (webinars, soundbite video training, online toolbox with sample policies). ▪ Newsletters to highlight claims lessons learned. • Create a video on risk management and being a CJPRMA member. • Create a best practices library on the website o Information could be culled from past board meetings.	• Presented risk transfer training with Bob Marshburn at two locations. • Scheduled cyber security training. **Further training pending loosened COVID-19 restrictions.**
Determine if growth should be a priority. Priority 3 **10%**	• Analyze the pros and cons of growth. o Actuarially o Cost benefits study • Review Underwriting Policy to ensure the right members are accepted at the right rate. • Determine target markets (prospects) . o Based on scale (possibly size of payroll). o Create a list of unattached cities. • Analyze existing staff capacity.	• Started working on a database of all cities in California and the pools with which they are affiliated. • Communicated with a community services district and a power generation JPA regarding membership. Neither were a good fit for CJPRMA.

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CALIFORNIA JOINT POWERS
RISK MANAGEMENT AUTHORITY

AGENDA BILL

ITEM: 2	**TITLE: BUSINESS CALENDAR FOR 2020**
MEETING: 06/18/2020	
GENERAL MANAGER: A.B.G.	

Recommended Actions
None: This item is being provided for information only.

Strategic Direction
Strategic Goal #3, 100% Member Retention

Item Explanation
The CJPRMA Business Calendar will be provided as a standing agenda item for Executive Committee meetings and Board of Director Meetings. This calendar provides Board Members and staff with a listing of key business items and the required dates for completion.

Fiscal Impact
None

Exhibits
1. CJPRMA 2020 Business Calendar

CALIFORNIA JOINT POWERS RISK MANAGEMENT AUTHORITY

2020 BUSINESS CALENDAR

January

- Distribution of Executive Committee Agenda – 01/09/2020
- Executive Committee Meeting – 01/16/2020
- Training Bob Marshburn Contractual Risk Transfer – 01/22 & 23/2020, CJPRMA & Petaluma
- Member Quarterly Payroll Reports – 01/31/2020
- Distribution of Summary of Property Values
- Distribution of Summary of APD Values
- Distribution of Property and Loss Data – 01/31/2020

February

- FPPC Form 700 Filing Requests Sent Out
- PARMA Conference - 02/25/2020 to 02/28/2020 Monterey Conference Center, Monterey, CA
- Return APD, Property and Boiler & Machinery Renewals Lists to Staff

March

- Deadline for Members to submit Agenda items for March Meeting – 03/9/2020
- Distribution of Board of Directors Meeting Agenda – 03/13/2020
- Board of Directors Meeting – 03/19/2020
- Distribution of Quarterly Member Loss Data
- Bi-annual Review of Conflict of Interest Code

April

- FPPC Form 700 Filing Deadline – 04/01/2020
- Annual Meeting Room Requests
- Distribution of Executive Committee Meeting Agenda – 04/10/2020
- Executive Committee Meeting – 04/16/2020 REMIF Office, Sonoma, CA
- Distribution of Certificate of Coverage Renewals Lists
- Requests for Nominations for President/Vice President (Bi-annually)
- Distribute nomination for President and Vice President (even numbered years)
- Cyber Risk Management Training – 04/22/2020 Rocklin & 4/23/2020 Chico
- Member Quarterly Payroll Reports – 04/30/2020

May

- Deadline for Members to submit Agenda items for Annual Meeting – 05/11/2020
- Distribution of Board of Directors Annual Meeting Agenda – 05/14/2020
- Board of Directors Annual Meeting – 05/21/2020 - CJPRMA
  - Commercial Insurance Renewals
  - Proposed Budget for 2021-2022
  - Claims Audit Presentation
  - Approval of Meeting, Business and Holiday Calendars
- Return Certificate of Coverage Renewals Lists to Staff

June

- Distribution of Executive Committee Meeting Agenda – 06/04/2020
- Executive Committee Meeting – cancelled due to COVID 19
- Requests for Nominations for President/Vice President (Bi-annually)
- Certificates of Coverage Renewals mailed to certificate holders - 6/30/2020
- Risk Management Plan Revisions
- Distribution of Quarterly Member Loss Data
- Training - TBD

July

- General Liability Premiums Billed
- Auto Physical Damage Program Premiums Billed
- Property Program Premiums Billed
- CJPRMA University (Board Member Orientation) - TBA
- Member Quarterly Payroll Reports - 07/31/2020

August

- Deadline for Members to submit Agenda items for August Meeting – 08/10/2020
- Distribution of Board of Directors Meeting Agenda – 08/14/2020
- Board of Directors Meeting – 08/20/2020
- Bi-annual election of President and Vice President (even numbered years)
- Election of Executive Committee Members
- Bi-annual Appointment of Treasurer (even numbered years)
- Financial Audit in process
- Annual Review of Investment Policy
- Actuarial Study in process
- Requests for Program Year 2019-2020 reimbursement of liability training expenses due – 08/31/2020

September

- Distribution of Executive Committee Agenda – 09/11/2020
- Executive Committee Meeting, CJPRMA - 09/17/2020
- CAJPA Conference –Lake Tahoe Resort, South Lake Tahoe, CA - 09/15/2020 to 9/18/2020
- Distribution of Quarterly Member Loss Data

October

- Member Quarterly Payroll Reports – 10/30/2020

November

- Deadline for Members to submit Agenda items for November Meeting – 11/29/2019

December

- Distribution of Board of Directors Meeting Agenda – 12/03/2020
- Board of Directors Meeting - 12/10/2020
  - Actuarial Study Presented
  - Financial Audit Presented
  - Annual Report Presented
- Deadline for change to SIR or withdrawal from any CJPRMA program - 12/28/2020
- Distribution of Quarterly Member Loss Data

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CALIFORNIA JOINT POWERS
RISK MANAGEMENT AUTHORITY

AGENDA BILL

ITEM: 3	**TITLE: APPROVE MODIFICATIONS TO LIABILITY MEMORANDUM OF COVERAGE RELATED TO DUTIES OF COVERED PARTIES**
MEETING: 06/18/2020	
GENERAL MANAGER: A.B.G.	

Recommended Actions

Approve modifications to the liability Memorandum of Coverage (MOC) to move forward to the full Board of Directors related to a covered party's duty to report claims to CJPRMA.

Strategic Direction

Strategic Goal #3, 100% Member Retention and Strategic Goal #7, Determine if CJPRMA is an Excess Pool, a Full-Service Pool or a Hybrid

Item Explanation

Section VII (Conditions), Paragraph (1) (Covered party's Duties in the Event of Occurrence, Claim or Suit) includes the following requirements:

> The covered party shall notify the Authority within 30 days upon receipt of notice of a claim, or the setting of a reserve on any claim or suit including multiple claims or suits arising out of one occurrence, such claim or reserve amounting to fifty percent or more of the retained limit; Title 42 USC 1983 cases in which a complaint has been served and the plaintiff is represented by legal counsel or with reserves of twenty-five percent or more of the retained limit; Information goes here.

Staff recommends modifying the requirement to report Title 42 USC 1983 cases to be fifty percent or more of the retained limit. The modified language would be:

> The covered party shall notify the Authority within 30 days upon receipt of notice of a claim, or the setting of a reserve on any claim or suit including multiple claims or suits arising out of one occurrence, such claim or reserve amounting to fifty percent or more of the retained limit; Title 42 USC 1983 cases in which a complaint has been served and the plaintiff is represented by legal counsel or with reserves of ~~twenty-five~~ fifty percent or more of the retained limit;

Most civil rights cases with no attorney do not develop into serious exposure for the pool. This will reduce one element of reporting responsibility for members. This does not change the requirement to report all Title 42 USC 1983 cases when plaintiff is represented by legal counsel. Staff does not anticipate any negative impact to the pool.

If the Executive Committee approves this modification, the general manager will agendize it for the August 20, 2020, Board of Directors meeting for modification of the MOC.

Fiscal Impact
None.

Exhibits
None.

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CALIFORNIA JOINT POWERS
RISK MANAGEMENT AUTHORITY

AGENDA BILL

ITEM: 4	**TITLE: ADOPT A RESOLUTION ON THE INTERPRETATION OF THE DEFINITION OF OCCURRENCE FOR SEXUAL ABUSE AND MOLESTATION CLAIMS**
MEETING: 06/18/2020	
GENERAL MANAGER: ABG	

Recommended Actions
Adopt a resolution to formalize the Board of Directors' intent on the definition of an occurrence for sexual abuse and molestation claims.

Strategic Direction
Strategic Goal #6, Evaluate Options to Increase Pool Equity

Item Explanation
In October 2019, Governor Newsom signed Assembly Bill 218, which became effective January 1, 2020.

AB 218 significantly changed the law related to childhood sexual abuse claims:

- Makes the statute of limitations for childhood sexual assault claims 22 years after reaching the age of majority (i.e., when claimant turns 40 years old) OR five years from when the victim discovers or reasonably should have discovered that psychological injury or illness occurred after the age of majority because of childhood sexual assault, whichever comes later (a certificate of merit is required for delayed discovery claims);
- Extends the limitations period for not just the molester, but extends if for others who had a duty to the victim and through a negligent or wrongful act was a "legal cause" of the molestation, or others who did not have a duty but committed an intentional act that was the legal cause ( ); and
- Extends the limitations period for ANY claim described above, regardless of the 40 years old/5 years from discovery limits, for three years from January 1, 2020, regardless of the victim's current age or date of discovery;
- Provides treble damages against anyone who covered up a childhood sexual assault, defined as "a concerted effort to hide evidence relating to childhood sexual assault."
- Finally, the Government Code is amended to delete the requirement of filing a government claim for any claim encompassed within the Bill (the assailant or other party who is a legal cause), repealing prior law that limited this to assaults after 1/1/2009.

The extended statute of limitations creates significant additional exposure to CJPRMA – exposure that the pool has not prepared for.

The CJPRMA Memorandum of Coverage for Program Year 2019/20 defines an "occurrence" to mean:

(a) with respect to *bodily injury* or *property damage*: an accident, including continuous or repeated exposure to substantially the same generally harmful conditions, which results in *bodily injury* or *property damage* neither expected nor intended from the standpoint of the *covered party*. *Property damage* that is loss of use of tangible property that is not physically injured shall be deemed to occur at the time of the occurrence that caused it.

Staff recommends approval of a Board resolution to affirm the manner in which "occurrence" will be interpreted for all coverage years. This is important because we are unable to change coverage language for previous program years.

The proposed language for the resolution is as follows:

Effective January 1, 2020, California enacted legislation amending Code of Civil Procedure section 340.1 and Government Code section 905 regarding "childhood sexual assault" as well as wrongful, negligent, or intentional acts by others deemed to be the legal cause of such assaults. This is a declaration of the Board's intent with respect to dates of "Occurrence" under all Memoranda of Coverage issued by the Authority, past and present, relating to such claims. In accord with the MOC language, past and present, all claims by all claimants related to "childhood sexual assault" by an employee or volunteer of a Covered Party shall be treated as a single Occurrence arising during the Coverage Period when the first assault took place, and the Memorandum of Coverage, Retained Limit and Limit of Coverage for that Coverage Period shall be applicable, and no other. This includes claims of negligent hiring, retention, or supervision of the employee or volunteer. This declaration of intent addresses only the issue of date of Occurrence, and non-accumulation of limits, and does not address issues of scope of coverage or application of exclusions that may relate to a particular claim or claims.

If the Executive Committee approves the proposal, the general manager will take the resolution to the Board of Directors at its August 20, 2020, meeting for ratification.

Byrne Conley, Board Counsel, has prepared an analysis of this issue. (Exhibit 1)

Fiscal Impact

Unknown at this time. Depending on the number of claims made for prior program years and the number of occurrences, the cost could be significant.

Exhibits

1. Byrne Conley Memo on Effect of AB 218

GIBBONS & CONLEY

MEMORANDUM -- CONFIDENTIAL

To: Tony Giles, Marinda Griese, CJPRMA **Date:** January 8, 2020

From: A. Byrne Conley

Re: *CJPRMA Memorandum of Coverage – effect of AB 218*

California Assembly Bill 218 was signed into law by Governor Newsom in October and amended the statute of limitations in molestation cases effective January 1, 2020. The statute does several things:

- Makes the statute of limitations for childhood sexual assault claims 22 years after reaching the age of majority (i.e., when claimant turns 40 years old) OR five years from when the victim discovers or reasonably should have discovered that psychological injury or illness occurred after the age of majority because of childhood sexual assault, whichever comes later (a certificate of merit is required for delayed discovery claims);
- Extends the limitations period for not just the molester, but extends if for others who had a duty to the victim and through a negligent or wrongful act was a "legal cause" of the molestation, or others who did not have a duty but committed an intentional act that was the legal cause (1); and
- Extends the limitations period for ANY claim described above, regardless of the 40 years old/5 years from discovery limits, for three years from January 1, 2020, regardless of the victim's current age or date of discovery;
- Provides treble damages against anyone who covered up a childhood sexual assault, defined as "a concerted effort to hide evidence relating to childhood sexual assault."
- Finally, the Government Code is amended to delete the requirement of filing a government claim for any claim encompassed within the Bill (the assailant or other party who is a legal cause), repealing prior law that limited this to assaults after 1/1/2009.

From a coverage standpoint, the statute raises a number of issues that were not anticipated before. Most self-insurance pools issue pooled coverage on an "Occurrence" basis, with coverage traced to the date of the occurrence giving rise to the loss. Program Years in the 1980s

1 The distinction in the statute between negligent and intentional actors likely refers to defendants who had a duty of care to the specific claimant, such as a school's duty to a child pupil or a County or City duty to an inmate in custody, as opposed to a duty to a member of the general public, where no affirmative duty to protect is imposed. Keep in mind that the person conducting the assault would likely be considered outside the course and scope of employment as a matter of law, so there would be no vicarious liability, although a jury issue on course and scope could exist where a police officer abused authority, per the *Mary M.* case.

and 1990s have typically been considered closed, with no funds retained for claims from those years, based on the statutes of limitations having long since passed under prior law.

Our recommendation is that the Board adopt a Resolution reciting that for Sexual Assault and Molestation ("SAM") claims, the intent of the Memorandum of Coverage, consistent with all past MOCs, is that there is one Occurrence per perpetrator, and not a separate Occurrence for each claimant, nor any Occurrence extending to multiple Coverage Periods and triggering multiple Retained Limits or Limits of Coverage.

CJPRMA LANGUAGE RE OCCURRENCE

Current MOC:

Section I – Coverages provides:

> The Authority will pay up to the *limit of coverage* those sums for *ultimate net loss* in excess of the *retained limit* that the *covered parties* become legally obligated to pay as *damages* because of *bodily injury*, *property damage*, *personal injury*, *public officials errors and omissions* or *employment practices liability* as those terms are herein defined and to which this agreement applies, caused by an occurrence during the coverage period, except as otherwise excluded.

Section II – Definitions provides:

> **Limit of coverage** shall be the amount of coverage stated in the declaration page or certificate of coverage for each *covered party* per *occurrence*, subject to any lower sublimit stated in this Memorandum. For each *occurrence*, there shall be only one *limit of coverage* regardless of the number of claimants or *covered parties* against whom a claim is made. If the *covered parties* have different limits of coverage, the highest limit for any party found liable by a final judgment will apply.
>
> ***
>
> **Occurrence** means:
>
> (a) with respect to *bodily injury* or *property damage*: an accident, including continuous or repeated exposure to substantially the same generally harmful conditions, which results in *bodily injury* or *property damage* neither expected nor intended from the standpoint of the *covered party*. *Property damage* that is loss of use of tangible property that is not physically injured shall be deemed to occur at the time of the occurrence that caused it.

(b) with respect to *personal injury*, *public officials errors and omissions liability* and *employment practices liability*, respectively: an offense described in the definitions of those terms in this coverage agreement.

***

Retained limit means the amount, identified in the applicable declaration or certificate of coverage, of *ultimate net loss* which the *member entity* must incur or become liable for before the Authority is obligated to make any payment, subject to the following:

(a) For each *occurrence*, there shall be only one *retained limit* regardless of the number of claimants or *covered parties* against whom a claim is made. If the covered parties have different *retained limits*, the lowest *retained limit* of any party found liable will apply. Payment of the retained limit shall be apportioned among the covered parties in accordance with their proportionate shares of liability….

Section IV – The Authority's Limit of Coverage provides:

The *limit of coverage* is the most the *Authority* will pay for *ultimate net loss* arising out of any *occurrence*, and the amount payable for *ultimate net loss* under this agreement shall be reduced by the amount of the *retained limit*. (For example, if the covered party has a $40,000,000 limit of coverage and a $500,000 retained limit, the Authority will pay not more than $39,500,000 after exhaustion of the retained limit.) For each *occurrence*, there shall be only one *limit of coverage* regardless of the number of claimants or *covered parties* against whom a claim is made.

Section V – Conditions provides:

6) **Accumulation of Limits** An *occurrence* which extends to a duration of more than one *coverage period* shall be treated as a single *occurrence* arising during the first coverage period when the occurrence begins.

Past MOCs:

The MOC has been amended over the years. The 1986 "Occurrence" definition had identical "including continuous or repeated exposure to substantially the same generally harmful conditions" language.

Section IV – The Authority's Limit of Liability said: "Regardless of the number of (1) persons or entities covered under this agreement, (2) persons or organizations making claims or

bringing suits, or (3) claims made or suits brought, the Each Occurrence Limit is the most the Authority will pay for "ultimate net loss" arising out of any one occurrence."

Section V – Conditions at part 5 provided: "Cumulation of Limits. An "occurrence" with a duration of more than one coverage period shall be treated as a single 'occurrence' arising during the coverage period when the 'occurrence' begins."

CASE LAW

There is quite a bit of case law nationally on the application of insurance policy language in commercial forms to molestation claims. Some say each incident can be a separate occurrence, some say all actions involving a single claimant amount to a single occurrence because of the "continuous or repeated exposure" language, and some say that all actions involving a single perpetrator amount to one occurrence when the claim is negligent hiring, retention and supervision of an employee. The California case law is not settled on this point, when the cases are examined carefully. One reported case found one occurrence per claimant, but that was based on a stipulation by the carrier rather than a finding by the court. However, a recent California Supreme Court case relating to the "accidental" and "neither expected nor intended" requirement for a negligent hiring/retention/supervision claim to constitute and "Occurrence" leads us to believe that a "one Occurrence per perpetrator" rule is applicable. (See *Liberty Surplus Ins. Co. v. Ledesma & Meyer Constr. Co.* (2018) 5 Cal.5th 220.) More importantly, cases repeatedly stress that the decision is not made by a general rule, but rather by application of contract law to the coverage document in question. So the Board's intent in adopting the Memorandum of Coverage determines the outcome.

RESOLUTION

I recommend that the Board consider the coverage issues raised by the new statute and consider issuing a Resolution or motion addressing the application of the MOCs to sexual assault and molestation claims, as follows (assuming the Board agrees with the analysis above):

***

Effective January 1, 2020, California enacted legislation amending Code of Civil Procedure section 340.1 and Government Code section 905 regarding "childhood sexual assault" as well as wrongful, negligent, or intentional acts by others deemed to be the legal cause of such assaults. This is a declaration of the Board's intent with respect to dates of "Occurrence" under all Memoranda of Coverage issued by the Authority, past and present, relating to such claims. In accord with the MOC language, past and present, all claims by all claimants related to "childhood sexual assault" by an employee or volunteer of a Covered Party shall be treated as a single Occurrence arising during the Coverage Period when the first assault took place, and the Memorandum of Coverage, Retained Limit and Limit of Coverage for that Coverage Period shall be applicable, and no other. This includes claims of negligent hiring, retention, or supervision of the employee or volunteer. This declaration of intent addresses only the issue of date of Occurrence, and non-accumulation of limits, and does not address issues of scope of coverage or application of exclusions that may relate to a particular claim or claims.

Back to Agenda

CALIFORNIA JOINT POWERS
RISK MANAGEMENT AUTHORITY

AGENDA BILL

ITEM: 5	**TITLE: PROPERTY PROGRAM COVERAGE FOR LOSSES DUE TO CORONAVIRUS**
MEETING: 06/18/2020	
GENERAL MANAGER: ABG	

Recommended Actions
None. This item is presented for discussion only.

Strategic Direction
Strategic Goal #6, Evaluate Options to Increase Pool Equity

Item Explanation
The most likely losses that members of the CJPRMA Property Program are likely to suffer due to the coronavirus pandemic of 2020 are business interruption losses and tax revenue interruption losses due to governmental orders to close business at the state and county levels. It is unlikely that there is coverage for either since each of them have a coverage trigger of direct physical loss or damage.

There is, however, an endorsement for Communicable Disease Coverage that includes coverage for business interruption losses when facilities are ordered closed by an authorized government agency.

Alliant Insurance Services has decided to not provide any coverage opinions related to coronavirus and has left decisions on coverage to the insurance carriers. Insurance industry news has been filled with stories of insureds filing suit to get coverage for business interruption and carriers filing suit to prevent coverage. It will likely be years until all litigation around this coverage has been resolved.

This item is presented for the Executive Committee to better understand the coverage and discuss possible approaches by CJPRMA. Byrne Conley has prepared a memo that analyzes the coverage under the CJPRMA property program.

Fiscal Impact
Unknown at this time.

Exhibits
1. Byrne Conley Memo “Property Coverage and Virus”

GIBBONS & CONLEY

MEMORANDUM -- CONFIDENTIAL

To: Tony Giles, CJPRMA **Date:** April 29, 2020

From: A. Byrne Conley, Sean C. Conley

Re: *Property coverage and virus*

This is discussion of the PEPIP USA Form No 15 Master Policy Wording as it relates to the recent coronavirus outbreak, particularly what type of coverage might be available. This is a general discussion without an actual detailed claim, instead the main question is what would need to occur, generally, to trigger coverage? Actual contamination of insured property? The threat of contamination? A governmental shut-down order? And, what about property of others?

Is there a potential for any coverage under the PEPIP first party property damage policy?

1. Is contamination by a virus a property damage?

The insuring agreement simply states that the carrier "agrees to insure the following per the terms and conditions herein." (Section I, paragraph A (p. 1).) The Property Damage section states that there is coverage for "all property… of the Named Insured…" (Section II, paragraph A (p. 5).) The General Conditions section, under "perils covered," states that "this Policy provides insurance against all risk of direct physical loss or damage occurring during the period of this policy." (Section IV, paragraph A (p. 22).)

The question then becomes whether contamination of property, or the threat of contamination, by a widespread viral pandemic satisfies the requirement of a direct physical loss or damage to the property. This can be broken down into, on the one hand, the issue of the effect of the threat of contamination and/or quarantine, and on the other hand, the actual contamination of the specific, subject property.

While the current nationwide quarantine is unique, however, there have been more limited, specific quarantines in the past. In particular, certain meat products were placed under quarantine during the threat of "mad cow disease". One court held that the destruction of meat products, as a consequence of and import embargo, was not a property loss because the meat products themselves were not physically contaminated, and the destruction was a prophylactic act rather than a consequence of actual damage. (*Source Food Tech., Inc. v. U.S. Fidelity & Guar. Co*. (8th Cir. 2006) 465 F.3d 834, 836 [applying Minnesota law].) It appears that California has not specifically decided the issue with respect to a quarantine, but the interpretation that the requirement for "direct physical loss or damage" is not satisfied by regulatory restriction in use appears to be a plausible result.

The next question would be whether there could be covered property damage if one of the insured properties was specifically identified as having viral contamination. This condition is arguably similar to damage from other types of outside contaminants, such as asbestos, mold or pollution. These contaminants are all now subject to exclusions, suggesting that they could constitute property damage, since the exclusion would be unnecessary otherwise. The case law on these contaminants all discuss the exclusion, and implicitly assume coverage. However, there is some case law, usually involving food or materials contamination, which discuss the extent to which the outside contaminant must damage property to satisfy requirements for the coverage.

In *Shade Foods, Inc. v. Innovative Products Sales* (2000) 78 Cal.App.4th 847, a food manufacturer sought coverage for woodchip contamination in almond clusters sold to cereal manufacturers. The property policy covered "direct physical loss of or damage to covered property…" (*Id* at 872.) The decision concludes that, notwithstanding the insurer's (unspecified) arguments to the contrary, the contamination requiring destruction of the product constituted a physical loss of the product. (*Id* at 874.) The court declared this conclusion to be "obvious," and thus did not articulate its reasoning further.

This decision would support an argument that viral contamination of the property, which would make it unusable, should constitute a physical loss or damage to the property. Unfortunately, much of the discussion of outside contaminants is focused upon liability policies, which address the cause of the contamination (accident) rather than the resulting damage, as first party policies do. (See, e.g., *MacKinnon v. Truck Ins. Exchange* (2003) 31 Cal.4th 635, 643.)

There is some case law from other jurisdictions holding that harmful foreign substances can constitute property damage on a first party claim. (*Gregory Packing Inc. v. Travelers Property Casualty Co. of America*, (D.N.J. 2014) 2014 WL 6675934 [ammonia leak]; *Or. Shakespeare Festival Ass'n v. Great Am. Ins. Co.* (D. Or. 2016) 2016 WL 3267247 [smoke from nearby fire.]; *W. Fire Ins. Co. v. First Presbyterian Church* (Colo. 1968) 437 P.2d 52 (gasoline spill); and see 1 California Ins. Law Dictionary & Desk Ref. (2019 ed.) § D46 (collecting cases).) In *Mellin v. N. Security Ins. Co.* (N.H. 2015) 115 A.3d 799, the court found that "physical loss" required "a distinct and demonstrable alteration of the insured property" but that could include "not only tangible changes to the property" but also "changes that are perceived by the sense of smell and exist in the absence of structural damage". (*Id* at 547–551 [surveying cases from multiple jurisdictions, and concluding that cat urine smell from neighbor's property could constitute direct physical loss for first party coverage purposes].)

Here, on the one hand, a virus does not actually physically change property, but on the other hand, the wood chips did not physically change the oatmeal cluster, but rendered it unusable. (*Shade Foods, supra*.)

An argument that "direct physical loss or damage" does not require physical alteration of the building is the fact that some of the exclusions involve circumstances in which the physical property is not necessarily altered. For example, exclusion 10 excludes "nuclear reaction or nuclear radiation or radioactive contamination…" Exclusion 15 excludes loss or damage in the

form of or resulting from fungus, mold, mildew or yeast. While the presence of these exclusions may be suggestive, and they are not determinative, since physical damage could be caused by these sources, but is not necessarily caused by such conditions. The carrier may argue that extension of coverage 21, "Accidental Contamination" and endorsement for "Communicable Disease Coverage" demonstrate that viral infection is not covered unless it amounts to a contamination or comes within the communicable disease coverage. These extensions are discussed below.

On balance, we think the most likely result is that the requirement of "direct physical loss or damage" is not met unless there is a showing that the insured property is actually contaminated and this causes the loss. There is a possibility that courts could impose a more liberal interpretation but we think the best reading of the policy language.

This is supported by a number of published cases considering the language "direct physical loss or damage" language.

Here is a case indicating that loss of computer data does not qualify as direct physical loss or damage:

> Plaintiff's Loss Was Not a "Physical Loss"
>
> Neither party submitted any evidence suggesting that the phrase "direct physical loss" has some technical meaning or special meaning given by usage. Accordingly, we interpret these words in their ordinary and popular sense to determine whether they impart a clear and explicit meaning in the context of the losses claimed against the insurance policy. We conclude they do.
>
> The word "physical" is defined, inter alia, as "having material existence" and "perceptible esp. through the senses and subject to the laws of nature." (Merriam–Webster's Collegiate Dict. (10th ed.1993) p. 875.) "MATERIAL implies formation out of tangible matter." (*Id*. at p. 715.) "Tangible" means, inter alia, "capable of being perceived esp. by the sense of touch." (Id. at p. 1200.) Thus, relying on the ordinary and popular sense of the words, we say with confidence that the loss of plaintiff's database does not qualify as a "direct physical loss," unless the database has a material existence, formed out of tangible matter, and is perceptible to the sense of touch.
>
> ***
>
> We conclude the loss of the database, with its consequent economic loss, but with no loss of or damage to tangible property, was not a "direct physical loss of or damage to" covered property under the terms of the subject insurance policy, and, therefore, the loss is not covered. Although

> counsel have cited no California cases addressing this issue, nor have we found any, our conclusion is consistent with cases decided on closely related issues.

(*Ward General Ins. Services, Inc. v. Employers Fire Ins. Co.* (2003) 114 Cal.App.4th 548, 556–557.)

In this case, following *Ward*, the premises was subject to rainstorms and the healthcare center shut down its MRI machines to move them and facilitate roof repairs, then the MRI machines demagnetized and failed to boot up. The court found no direct physical loss.

> A direct physical loss "contemplates an actual change in insured property then in a satisfactory state, occasioned by accident or other fortuitous event directly upon the property causing it to become unsatisfactory for future use or requiring that repairs be made to make it so." (*AFLAC Inc. v. Chubb & Sons, Inc.* (2003) 260 Ga.App. 306, 581 S.E.2d 317, 319 [remediation costs of converting computer systems from two-digit to four-digit date recognition capability not a covered risk under all-risk property insurance].) The word "direct" used in conjunction with the word "physical" indicates the change in the insured property must occur by the action of the fortuitous event triggering coverage. In this sense, "direct" means " '[w]ithout intervening persons, conditions, or agencies; immediate [.]' [Citation.]" (*Ibid.*) For loss to be covered, there must be a "distinct, demonstrable, physical alteration" of the property. (10A Couch on Insurance, *supra*, § 148:46, p. 148–81.)
>
> In this case, there was no "distinct, demonstrable [or] physical alteration" of the MRI machine. Under the undisputed evidence presented, the 2005 storms resulted in the landlord's decision to repair the roof of the building to prevent water incursion. Ms. Valenzuela admitted that the original repair contemplated only a re-roofing of the surface "from the front to the back" without actual removal of the roof, with no impact upon the MRI machine. It was only after the roofers found structural damage to the roof immediately above the MRI machine, due to MHC's purported negligence in installing and maintaining the skylight, that it was decided the roof had to be removed and the MRI machine ramped down. Any damage suffered by the MRI machine in 2006 was not directly attributable to the 2005 storms.
>
> The failure of the MRI machine to satisfactorily "ramp up" emanated from the inherent nature of the machine itself rather than actual physical "damage." As State Farm suggests, the MRI machine was not "damaged" in the ordinary meaning of the word. In effect, the machine was turned off and could not be turned back on. This does not constitute a compensable "direct physical loss" under the policy. (*Pirie v. Federal Ins. Co.* (1998) 45 Mass.App.Ct. 907, 696 N.E.2d 553, 555 [internal defect in a building, such as bad title or bad paint, "does not rise to the level of a physical loss"].)

> For there to be a "loss" within the meaning of the policy, some *external force* must have acted upon the insured property to cause a *physical change* in the condition of the property, i.e., it must have been "damaged" within the common understanding of that term. (See *Ward General Ins. Services, Inc. v. Employers Fire Ins. Co.* (2003) 114 Cal.App.4th 548, 556–557, 7 Cal.Rptr.3d 844 [loss of stored database when system "crashed" with consequent economic loss was not " 'direct physical loss' " covered under policy]; *State Farm Fire & Casualty Co. v. Superior Court* (1989) 215 Cal.App.3d 1435, 1445, 264 Cal.Rptr. 269 ["Neither diminution in value nor the cost of repair or replacement are active physical forces—they are not the cause of the damage ... [but] the measure of the loss or damage"].)

(*MRI Healthcare Center of Glendale, Inc. v. State Farm General Ins. Co.* (2010) 187 Cal.App.4th 766, 779–780.)

In this case, the insured purchased counterfeit wine; the court analyzed the direct physical loss language and found that the "Valuable Possessions" coverage extension was not triggered.

> "Given this premise, the threshold requirement for recovery under a contract of property insurance is that the insured property has sustained physical loss or damage. [Citation.] 'The requirement that the loss be "physical," given the ordinary definition of that term is widely held to exclude alleged losses that are intangible or incorporeal, and, thereby, to preclude any claim against the property insurer where the insured merely suffers a detrimental economic impact unaccompanied by a distinct, demonstrable, physical alteration of the property.' " (*Simon Marketing v. Gulf Ins. Co.*, *supra*, 149 Cal.App.4th at pp. 622-623, 57 Cal.Rptr.3d 49.)
>
> Here, Doyle has not pleaded a breach of contract claim that can be proven at trial because nothing happened *to the covered property* (i.e., the wine that Doyle purchased and insured). That is, the plain language of the "PERILS INSURED AGAINST" provision makes it clear that Fireman's Fund was insuring against "direct and accidental loss ... *to covered property*." The word "loss" modifies the subject phrase "covered property" by way of the preposition "to." Fireman's Fund was insuring against any losses *to* the wine; Fireman's Fund was not insuring against any losses *to* Doyle's finances or *to* his unrealized expectations as to the value of the wine he had purchased. (See *California Fair Plan Assn. v. Garnes* (2017) 11 Cal.App.5th 1276, 1288-1289, 218 Cal.Rptr.3d 246 [the phrase "total loss *to* a structure" in a fire insurance statute "unmistakably contemplates a quantum of physical damage ... and excludes the sort of economic analysis employed by" the plaintiff].)
>
> When Doyle purchased the wine from Kurniawan it was counterfeit. The wine remained counterfeit (and essentially worthless) throughout the entire coverage

> period of the policy. Perhaps Doyle has a valid claim against Kurniawan for fraud. However, Doyle cannot reasonably expect his Fireman's Fund "Valuable Possessions" property insurance policy to reimburse him for his multiple purchases of wine from Kurniawan, which was essentially valueless at the time of purchase.
>
> Indeed, when it comes to property insurance, diminution in value is not a covered peril, it is a measure of a loss. (*State Farm Fire and Casualty Co. v. Superior Court* (1989) 215 Cal.App.3d 1435, 1444, 264 Cal.Rptr. 269 (*State Farm*).) In *State Farm*, a homeowner's association (HOA) had purchased insurance to cover its condominium complex. The HOA filed a claim when it discovered latent deficiencies "allegedly due to building code violations, faulty workmanship and fraud by the builder," even though "the policy specifically excluded recovery for latent defects, faulty workmanship and construction code violations." (*Id*. at p. 1439, 264 Cal.Rptr. 269.) After the insurance company predictably denied the claim, the HOA sued, arguing that "the actual loss was the 'diminished value of the building' which was a nonexcluded ensuing loss." (*Ibid*.) The appellate court disagreed. " 'Diminution in market value' is not a 'peril' at all; it is a method of measuring damages." (*Id*. at p. 1444, 264 Cal.Rptr. 269.)
>
> Here, similar to *State Farm*, Doyle suffered a diminution in value—he lost the money he had invested in his wine collection—because of the fraud committed by Kurniawan. But Doyle's financial loss was not a covered peril, it is simply a measure of his damages. Doyle contends that unlike the property insurance policy in *State Farm*, the Fireman's Fund property insurance policy does not limit itself to *physical* damages. But given the fundamental nature of property insurance, the policy Doyle purchased only insured him against potential harms to the wine itself, such as fire, theft, or abnormal spoilage; Doyle did not insure himself against any potential financial losses. Doyle did not buy a *provenance* insurance policy; Doyle bought a *property* insurance policy.

(*Doyle v. Fireman's Fund Ins. Co.* (2018) 21 Cal.App.5th 33, 38–39.)

This is an out-of-state federal case indicating that presence of asbestos in a building, in addition to be being excluded as a pollutant, does not trigger the "direct physical loss or damage" condition.

> In this case, the policy language is even more specific than the language in *Wyoming Sawmills*. It uses the term "direct physical loss". There is no evidence here of physical loss, direct or otherwise. The building has remained physically intact and undamaged. The only loss is economic. The policy, by its own terms, covers only direct physical loss. The inclusion of the terms "direct" and "physical" could only have been intended to exclude indirect, nonphysical

losses.

(*Great Northern Ins. Co. v. Benjamin Franklin Federal Sav. and Loan Ass'n* (D. Or. 1990) 793 F.Supp. 259, 263, aff'd (9th Cir. 1992) 953 F.2d 1387.)

Under the reasoning of these cases, loss of use of property, not due to physical damage to the property but rather due to governmental order, does not fall within coverage, absent an extension deleting the physical damage requirement.

2. If Viral Contamination Is Property Damage, What Recovery Is Available?

If a claim can be made for having to shut down operations and exclude people from the use of the property, there would probably be no costs for remediation, and the entire loss will be the value of the "business" interruption. If a claim can only be made or property shown to have actual contamination, there would be remediation costs, along with a potential "business" interruption claim. Based upon public discussions, the cost of cleanup amounts to wiping down contact surfaces with alcohol wipes. Thus, coverage is only of significant value if the claim can be made for the value of the interrupted use the property, and even in that case, probably only if there would be coverage for properties without specifically identified contamination.

If coverage exists, it may be subject to any of a number of sub-limits identified and Article I, paragraph (E)(2). The list includes sub-limits for business interruption/tax interruption (c), accidental contamination (n), and contingent business interruption (u).

3. Does the "Accidental Contamination" Extension of Coverage Provide Coverage for Viral Infection?

The policy states that it extends coverage to both Business Interruption and Property Damage loss "as a result of accidental contamination, discharge or dispersal from any source to covered property…" ("Extensions of Coverage," Section II (b)(21).) As noted above, the fact that the policy "extends coverage" to contamination suggests that such contamination would otherwise not be covered. None of that, of course, answers the question of what constitutes contamination, which is not defined in the policy. Note that this coverage extension is subject to a sublimit per occurrence with an annual aggregate per named insureds and all named insureds.

Contamination has been defined as: "Impairment or impurity resulting from mixture or contact with a foreign substance to render unfit for use by the introduction of unwholesome or undesirable elements, or a condition of impurity resulting from mixture or contact with a foreign substance." (*Alex R. Thomas & Co. v. Mutual Service Casualty Ins. Co.* (2002) 98 Cal.App.4th 66, 73 [presence of chloride in the insured's refrigeration system was clearly contamination], [citations omitted].) Note that this definition was applied to an exclusion from coverage, not an extension of coverage. In either case, the language as phrased is so broad that it could certainly include the spread of a virulent disease in a building. Note that *Shade Foods, supra,* characterized the "contamination" of the almonds by wood chips as a physical loss. The court

was not interpreting policy language using the term "contamination," however.

This extension applies to "contamination… to Covered Property, including expenses necessarily incurred to clean up, remove and dispose of contaminated substances…" This suggests that the extension only applies where there is actual, individualized contamination of property, and not merely a secondary loss of use of property because of generalized quarantine. Thus, this extension is of limited value where the impairment of the property is a generalized, nonspecific threat of potential contamination. Furthermore, the extension is subject to a sub-limit identified in the declaration page, except when caused by a covered peril specifically identified, such as fire, lightning, etc. – none of which appear applicable to the spread of virus. (See also Exclusion 18, excluding contamination except where provided in this coverage extension.)

4. Does the "Business Interruption" Extension of Coverage Provide Coverage for Viral Infections?

The policy also provides for coverage for business interruption, tax revenue interruption and several other items in section III of the policy. The policy provides "coverage for: against [sic] loss resulting directly from interruption of business, services, or rental value caused by direct physical loss or damage, as covered by this Policy…" (Section III (a)(1).)

The issue of whether exposure to viruses, amounts to a "direct physical loss" is discussed above. Also noted above is that the "contamination" extension is applicable to this coverage, and therefore "contamination" constitutes a loss for purposes of this coverage. Section III (a)(2). Our conclusion is therefore the same: business interruption coverage is not triggered without a showing that the insured property is actually contaminated and this causes the loss.

This coverage includes "extra expenses" in the form of the cost of attempting to continue operations in as normal a fashion as practical circumstances. The coverage contains numerous restrictions, including being limited to a 30 day period with a 24-hour waiting period, as a result of damage from a covered cause on property within a 20 mile radius of covered property. Section III (b)(1). Note that this clause again uses the language of a loss as a direct result of physical loss or damage, which again is presumably expanded by the "contamination" extension.

This coverage is then "extended to include" actual loss to the insured, for up to 30 days, when, from "damage to or destruction of" property, access to the property is "specifically prohibited by order of a civil authority." (Section III (b)(2), "Interruption by Civil Authority.") Again, there is a 24-hour waiting period. However, it is important to note that this Extension is only triggered when the order is "a direct result of damage to or destruction of property by a covered peril(s) occurring at property located within a 20 mile radius of covered property" and access to insured property is specifically prohibited by order of a civil authority. While the public quarantine appears to satisfy the civil authority order, the order was not issued in response to damage to (contamination or infection of) specific insured or other buildings by a covered peril, but rather in response to a generalized infection in the population. The apparent purpose of this clause is to provide coverage for situations such as where a specific building is red tagged

because of its damaged condition. The language of this provision does not appear to cover a situation where property use is disrupted as a secondary consequence of the direction to the general populace to shelter at home.

The business interruption extension also applies to covered claims at a direct supplier or customer location, which prevents the insured from receiving or supplying goods and services. (Section III (b)(4).) Although this enlarges the locations for a covered event, there remains the problem that it requires "loss directly resulting from physical damage to property" at a direct supplier or direct customer location, rather than a generalized concern about contamination.

Finally, this coverage has an extension for "tax revenue interruption." (Section III (b)(5), p. 18.) This extension provides for coverage "against loss resulting directly from necessary interruption of sales, property or other tax revenue … collected by or due the Named Insured caused by damage or destruction to property which is not operated by the Named Insured and which wholly or partially prevents the generation of revenue for the account of the Named Insured." (Emphasis added.) This coverage is then limited to the "actual loss sustained for only the length of time as would be required with exercise of due diligence and dispatched to rebuild, replace or repair the contributing property…" There is also a $3 million sub-limit. Additionally, there is also a deductible of 2.5% of the annual revenue per location.

This type of coverage has not been examined by the courts, but appears to be directed at a situation where there is a primary tax generating third-party location, the loss of which could pose a significant tax revenue lost to the insured. As written, it requires that "each loss or series of losses arising out of one event at each location shall be adjusted separately…"

The $3 million sub limit is reduced to $1 million per occurrence if the "Tax Revenue Interruption" values have not been reported to the carrier. The policy form itself does not detail how such tax revenues must be reported.

Coverage under this term involves all of the uncertainty about whether there is a loss secondary to the general risk of infection, or only if there is a specific infection, or there is no property loss even if infected people have been on the premises. The language certainly suggests that only the interruption during the "time to cure," i.e. the time to sanitize the property, would be covered, which would very much minimize the time of revenue loss. The "period of restoration" is defined as beginning on the date of "direct physical loss" and ends on the date that the property should have been repaired. (Section III (e)(5).)

5. Does the Communicable Disease Coverage Endorsement Apply and What Is Its Effect?

Endorsement 4 provides coverage for communicable diseases. The specific deductible should be compared to the declarations page, but the endorsement indicates a $500,000 per occurrence and $10 million aggregate limit.

This coverage reimburses "actual business income loss sustained by you and communicable disease extra expense and crisis response expenses incurred by you," due to "an order of an authorized governmental agency" which results in partial or total suspension of "your business operations at your location."

The "critical response expenses." are defined to include public relations to restore the "reputation and stature" of the property, and expenses to recover money from a governmental program or agency for communicable disease extra expenses.

The "communicable disease extra or expense" includes cleanup and restoration costs for the location. Again, for the current virus, the cleanup and restoration cost for a particular location appear to be minimal. The extra expense coverage by its own terms applies only where the location is "contaminated by the presence of a communicable disease."

Where an insured is forced to cancel revenue-producing events on an insured property, the business income coverage would clearly seem to be applicable. This should apply both to rental interruption and loss of fees for classes or similar events, or even sale of merchandise. Note that the form uses the term "at your location" which seems to exclude loss resulting from damage at other locations, such as locations of suppliers, customers or taxpayers; for those locations, "damage or destruction to property" would be necessary. (See Section III.B.4 and III.B.5.)

The question here is whether the tax revenue loss would be considered a "business expense." The fact that the policy has separate coverages for business interruption expenses and loss of tax revenue would undoubtedly be the basis for the carrier to argue that this coverage is only applicable to traditional private business expenses. Indeed, the endorsement indicates that this coverage is added to "Section III B. Extension of coverage, item 4." That paragraph relates to coverage for business interruption, rental income and tuition income, and precedes the tax revenue interruption coverage in paragraph 5. It also requires physical damage to a third party (direct supplier or direct customer) which prevents the third-party from supplying goods and services to the insured. Again, none of this language appears to be favorable to a claim of a lost revenue stream from property other than insured property, particularly since that lost revenue stream is otherwise identified in the separate tax revenue interruption coverage.

6. Would Any Exclusions Preclude the Claim for Viral Infection?

None of the general policy exclusions appear to preempt an otherwise valid claim, if the viral infection claim can be made. Exclusion 15 deals with damage from fungus, mold, mildew or yeast, which are limited to traditional molds and fungi. Exclusion 16 excludes losses resulting from "actual or threatened malicious use of pathogenic or poisonous biological or chemical materials…" To date, publicly released information has not identified the current virus has a biological weapon. The same could be said for exclusion 20, relating to "acts of terrorism."

Exclusion 18 excludes damage or loss from "seepage and/or pollution and/or

contamination" from any cause. The exclusion goes on to allow for damages for removal of debris and cost of cleanup of "direct physical loss or damage." The viral infection is clearly not seepage, and is certainly not pollution in the generally understood sense. The policy does not define contamination, but does provide for a sub-limit for accidental contamination, and specifically extends both the Business Interruption and Property Damage coverages to "accidental contamination," and Exclusion 18 makes an exception for this coverage, and for contamination proximately resulting from a loss caused by a covered peril.

7. How does the Communicable Disease Coverage Endorsement sublimit apply?

The Communicable Disease Coverage Endorsement contains a sublimit of "$500,000 per Occurrence and annual aggregate per named insured subject to an aggregate of $10,000,000 for Declarations 1-5, 11-14, 18-30, and 32-34 combined."

The "per named insured" language is ambiguous, we believe, as it is described in the declarations pages we reviewed that involved JPAs and their members. The title in each case was "Named Insured Schedule" listing the JPA, only as the "Named Inusred." But this was followed by a sentence reciting "Named insured shall be deemed the sole agent of each and every Named Insured for the purpose of: [notices, etc.]." Since there is only one "Named Insured" this language implies that the first "Named Insured" (the JPA) is a sole agent for other "Named Insured" entities listed on the page and implies that the terms "Named Insured" and "Named Insured Member" are interchangeable. Then there is a separate "Named Insured Member(s)" list "for whom the Named Insured has extended coverage…." The apparent intent in this sentence is to distinguish between "the Named Insured" and "Named Insured Members" but it is certainly not clear that the "Named Insured Member" is not also considered a "Named Insured."

We think the probable intent is to impose a per-Occurrence and aggregate limit for the JPA, not separately for each JPA Member. But, we also think there is a reasonable argument that the language does not accomplish this, at least not unequivocally. The issue may be moot under the current pandemic, however, since the aggregate for all PEPIP Declarations in the cited, numbered group will likely be exhausted.

Because there is an aggregate limit, it would be prudent for JPAs to collect information related to Communicable Disease Coverage promptly and submit it for a coverage review. It would then be up to the JPA to allocate among members where claims exceed the coverage limits.

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RISK MANAGEMENT AUTHORITY

AGENDA BILL

ITEM: 6	**TITLE: CONSIDER EXCLUSION IN LIABILITY MEMORANDUM OF COVERAGE FOR COMMUNICABLE DISEASE**
MEETING: 06/18/2020	
GENERAL MANAGER: ABG	

Recommended Actions
None. This item is presented for discussion only.

Strategic Direction
Strategic Goal #3, 100% Member Retention, and Strategic Goal #6, Evaluate Options to Increase Pool Equity

Item Explanation
The CJPRMA Memorandum of Coverage (MOC) does not exclude coverage for communicable diseases. However, the MOC does contain a sublimit for fungal pathogens:

> **Fungal Pathogens Sublimit/Aggregate Limit** A sublimit applies to any loss, cost or expense directly or indirectly arising out of or related to exposure to "fungal pathogens," whether or not there is another cause of loss that may have contributed concurrently or in any sequence to the loss. The sublimit will be $10,000,000 per occurrence, subject also to a $5,000,000 annual aggregate collectively in Pool D only, for all covered parties. The designated general aggregate limit of $5,000,000 is the most the Authority will pay from Pool D because of such claims for all covered parties, combined, in any program year. "Fungal pathogens" as used herein, shall mean any fungus or mycota or any byproduct or type of infestation produced by such fungus or mycota, including, but not limited to, mold, mildew, mycotoxins, spores, bacterial pathogens, or any biogenic aerosols.

Board counsel has opined that coverage for coronavirus losses would be covered under this sublimit as a biogenic aerosol.

In response to the coronavirus pandemic, it is anticipated that most insurance company will start to exclude communicable disease as a cause of loss, and that will include insurers in the public entity reinsurance market. In fact, most of the reinsurers that have provided quotes for

this year's liability renewal have included exclusions for communicable disease. Munich Re, is CJPRMA's first layer of reinsurance, and they will be providing $10 million in limits. Aon has convinced them to not exclude communicable disease for the 2020/21 program year. However, Munich Re has already stated that it will be excluded effective July 1, 2021. The MOC will need to be modified to reflect that change for program year 2021/22. Also, the Board of Directors will need to decide whether to include the coverage in CJPRMA's retained layer (up to $5 million) even if there is no reinsurance coverage for the losses. The Board will also need to determine whether to exclude coverage for communicable disease for program year 2020/21.

Fiscal Impact
Unknown at this time.

Exhibits
None.

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AGENDA BILL

ITEM: 7	**TITLE: CONSIDER EXCLUSION IN LIABILITY MEMORANDUM OF COVERAGE FOR POWER GENERATION**
MEETING: 06/18/2020	
GENERAL MANAGER: ABG	

Recommended Actions
None. This item is presented for discussion only.

Strategic Direction
Strategic Goal #3, 100% Member Retention, and Strategic Goal #6, Evaluate Options to Increase Pool Equity

Item Explanation
The CJPRMA Memorandum of Coverage (MOC) does not exclude coverage for power generation or power transmission lines. Considering the exposure to wildfire losses and other losses from these risks, a CJPRMA member has suggested exploring the possibility of excluding such losses. CJPRMA has not had a bad history of liability losses related to power generation, but there have been losses. This item is for discussion with the Executive Committee and is a follow-up to a conversation as a risk management issue at the January 2020 Executive Committee meeting. Future discussion with or proposals to the Board of Directors will depend on the outcome of this discussion.

Fiscal Impact
Unknown at this time.

Exhibits
None.

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RISK MANAGEMENT AUTHORITY

AGENDA BILL

ITEM: 8	**TITLE: RECOMMEND APPROVAL OF A BOARD POLICY ON THE TREATMENT OF FLAT FEE COSTS FOR THIRD-PARTY ADMINISTRATORS**
MEETING: 06/18/2020	
GENERAL MANAGER: A.B.G.	

Recommended Actions
Recommend approval of a Board policy on the treatment of flat fee costs for third-party administrators and recommendation to the Board of Directors to approve that policy.

Strategic Direction
Strategic Goal #3, 100% Member Retention

Item Explanation
The CJPRMA Memorandum of Coverage (MOC) defines ultimate net loss to include defense costs, and defense costs are defined to include "adjusting expenses of a third party claims administrator which are specifically identifiable with a claim subject to this coverage."

Many CJPRMA use third-party administrators (TPAs) to investigate and adjust their liability claims. When the contracts are on a time and expense basis, it is easy for the TPA and the member to track to adjusting expenses associated with a specific claim. However, when a contract is on a flat fee basis, it is more difficult to know how much money was spent adjusting the claim.

In 2018, a TPA working for a CJPRMA member approached CJPRMA with a recommendation to informally address the issue of flat fee contracts. For members with flat fee contracts, the TPA would track the hours spent on a specific claim, and CJPRMA would allow an agreed upon hourly rate be used to determine the cost of the adjusting expenses. The general manager at the time agreed to this informally. Board Counsel has recommended that this practice be formalized via Board policy.

The draft policy proposes to use $100 per hour as the agreed upon hourly rate.

The general manager recommends that the Executive Committee approve this policy and forward to the Board of Directors for review and approval at the August 20, 2020, Board of Directors meeting.

Fiscal Impact

The actual fiscal impact in unknown at this time, but it should be minor. This policy would allow more claims administration expenses to be used to erode a member's self-insured retention. For claims that exceed member retention, the cost of claims administration is a very small portion of the ultimate net loss.

Exhibits

1. Draft Policy: Treatment of Flat Fee Costs for Third-Party Administrators

CALIFORNIA JOINT POWER RISK MANAGEMENT AUTHORITY		
BOARD POLICY	**Number B27**	**Page 1 of 1**
Subject: Treatment of Flat Fee Costs for Third-Party Administrators	**Date Adopted:** **8/20/2020**	**Effective Date:** **8/20/2020**
Agenda Bill XX	**Date Revised:** **N/A**	**Supersedes:** **N/A**

Objective

Many CJPRMA members use a third-party administrator (TPA) to investigate and adjust liability claims. The CJPRMA Memorandum of Coverage (MOC) includes defense costs in its definition of ultimate net loss, and defense costs are defined to include "adjusting expenses of a third party claims administrator which are specifically identifiable with a claim subject to this coverage."

When a TPA contract is on a time and expense basis, TPAs and members can easily identify costs associated with a specific claim. However, when a contract is on a flat fee basis, costs are not applied to specific claims.

If a member with a flat fee TPA services contract wishes to apply the claims adjusting expenses toward ultimate net loss, the TPA will need to record the hours used working on specific claims, and CJPRMA will use a $100 per hour rate with those hours to apply to the ultimate net loss on the claim. It shall be the member's responsibility to have their TPA accurately record these hours and report to CJPRMA.

Periodic Review

This policy will be reviewed periodically to determine the adequacy of the hourly rate.

Authorized Signature
Tony Giles, General Manager

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RISK MANAGEMENT AUTHORITY

AGENDA BILL

ITEM: 9	**TITLE: SUCCESSION PLANNING FOR THE FINANCE OFFICER POSITION**
MEETING: 06/18/2020	
GENERAL MANAGER: ABG	

Recommended Actions
None. This item is for discussion only.

Strategic Direction
This agenda item affects all CJPRMA Strategic Goals.

Item Explanation
CJPRMA's finance officer has stated that she is likely to retire in September 2021. The finance officer is a mission-critical position for CJPRMA, and it is important for the pool to do all it can to recruit and hire a high-quality candidate to fill the position when the current finance officer retires.

When the previous general manager retired, the Board of Directors approved the hiring of an assistant general manager to allow for succession planning by having the general manager and assistant general manager spend some months working together. This facilitated a smooth transition from the previous general manager to the current general manager.

The general manager suggests following a similar model for the recruitment of a new finance officer. CJPRMA has an existing position of finance analyst that could be used as the classification for succession planning purposes. The goal would be to have a finance analyst hired by March 2021 to allow for six months of time for the finance officer and finance analyst to work together.

Fiscal Impact
None at this time. If a finance analyst were hired at 90% of the top step, the total fiscal impact including benefits and CalPERS contributions would be $79,828. This cost would be spread across two program years.

Exhibits
None.

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AGENDA BILL

ITEM: 10	**TITLE: APPROVAL OF SALARY ADJUSTMENT FOR THE GENERAL MANAGER**
MEETING: 06/18/2020	
GENERAL MANAGER: ABG	

Recommended Actions
Approve salary increase of five percent for the general manager, retroactive to December 4, 2019.

Strategic Direction
This agenda item affects all CJPRMA Strategic Goals.

Item Explanation
Article IV of the CJPRMA By-Laws describes the powers of the Executive Committee, and among those powers is "personnel matters concerning salary, benefits and working conditions of staff."

The general manager was appointed to the position on December 4, 2018. The Executive Committee met in closed session on January 16, 2020 to conduct the performance appraisal of the general manager. The Executive Committee delegated authority to the President of the Board of Directors, Kim Greer, to deliver the performance appraisal to the general manager and negotiate a salary adjustment. The negotiated adjustment is a five percent increase retroactive to December 4, 2019.

Fiscal Impact
The general manager's annual salary will increase from $172,000 to $180,600, an increase of $8,600 per year. The total annual fiscal impact including CalPERS contributions and payroll tax $9,945.

Exhibits
None.

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CALIFORNIA JOINT POWERS
RISK MANAGEMENT AUTHORITY

AGENDA BILL

ITEM: 11	**TITLE: RISK MANAGEMENT ISSUES**
MEETING: 06/18/2020	
GENERAL MANAGER: A.B.G.	

Recommended Actions
None. This item is being provided for information only.

Strategic Direction
Strategic Goal #3, 100% Member Retention

Item Explanation
This item is reserved for the discussion of risk management issues that are of concern to the members and for the provision of status updates on the risk management program. No risk management issues were proposed for this meeting.

Fiscal Impact
None.

Exhibits
None.