RISK MANAGEMENT ADVISORY COMMITTEE (RMAC)

Meeting Minutes
September 8, 2020

A meeting of the State Risk Management Advisory Committee was held on this date in Room WW17, Statehouse, Boise, Idaho. Chairman Reynolds called the meeting to order at 1:30 p.m.

Members Present:
Keith Reynolds, Director, Department of Administration (DoA) and Committee Chair
Faith Cox, Administrator, Division of Insurance and Internal Support, DoA
Susan Buxton, Administrator, Division of Human Resources (DHR)
Charlene McArthur, Idaho Transportation Department (ITD)
Representative John Gannon (via conference call)
Kip McBean, Boise State University (BSU) (via teleconference)

Members Absent:
Josh Tewalt, Director, Department of Correction
Senator Steven Thayn

Others Present:
Kris Coffman, Risk Management Program Supervisor, Office of Risk Management (ORM)
Tracy Whigam, Program Specialist, ORM
Max George, Risk Management Analyst, ORM
Colleen Tarlas, Claims Technician, ORM (via teleconference)
Julie Weaver, Deputy Attorney General, Attorney General's Office (via teleconference)
Maggie Smith, Analyst, Legislative Services Office (via teleconference)
Diane Blume, Program Specialist, DoA

WELCOME NEW MEMBERS

Chairman Reynolds introduced the two newest members of the Committee--Charlene McArthur, Chief Administrative Officer from ITD and Kip McBean, Risk Insurance Manager at BSU. Chairman Reynolds thanked them for their participation and pointed-out that their backgrounds will be of value to the Committee.

APPROVAL OF MINUTES

MOTION: Ms. Buxton moved, and it was seconded by Ms. Cox that the minutes of the May 19, 2020 Risk Management Advisory Committee meeting be approved with the amendment that the date on the document be changed to May 19, 2020. The motion passed unanimously.

FINANCIAL REVIEW

FY20 – FY22 Cash Analysis Report, ending 6/30/20

This report is provided regularly to the Committee, Chairman Reynolds explained, and is based on an annual actuarial cash projection. The recommended ending reserve balance represents estimated total liability the state has or will incur by the end of the fiscal year. This methodology was adopted so that setting premiums is both consistent and dependable. One exception is cyber liability which will be covered later in the meeting, he said.

The most important part of the analysis is agency receipts. In FY20 receipts were almost $13.5 million; in FY21 there were over $13.7 million; and, in FY22 over $15 million. The FY22 numbers represent an escalation of claims expenses, increase in load from insurance premiums, and recommended growth in the reserve balances. The largest increase is in the liability area, he noted. Based on Committee recommendations, adjustments have been made to other lines of business to control costs such as auto physical, for example, and switching to a self-funded cyber liability program. Total recommended reserves went from nearly $14.4 million in FY21 to over $16.1 million in FY22, and the biggest portion is liability.

Representative Gannon inquired if the projections provided today would have been different if the state had been included in the limited liability legislation that was just passed during the special legislative session. Chairman Reynolds responded that these projections were done in May and there was no known impact of the legislation at that time. Actuaries usually need some basis and history to factor in projections.

He added that there were two significant events that took place over the past year that will affect the dollar amount incurred through the state's liability plan in the future. The first is legislation, passed during the last regular session, that limits some of the liability on Idaho Protection of Public Employees Act claims. Secondly, a change was made to the state plan offering coverage for salaries and wages for agencies. This will allow the ORM to regulate those costs by having more control over litigation. The ORM will also work with DHR to offer a tiered liability plan where agencies can take advantage of a lower deductible if they follow certain processes through DHR.

The Expense Variance Analysis for FY20 worksheet, Chairman Reynolds continued, includes projections from the state's actuary compared to actual expenditures. The cost for administering the plan, which is not a projected number, has a positive balance of $132,435. These dollars are payments yet to be paid to the company designing the new ORM information system and will be rolled into FY21. Liability, he continued was projected at about $3.8 million and actual expenses were nearly $5.1 million. The variance represents the increase in liability premiums for FY22.

Prior to this year, he said, the state had been insured for Cyber Liability with Lloyd's of London. It was projected that $71,735 would be spent on claims in FY20; however, there were no payments. The policy included a $1 million deductible with a recommended reserve balance of only $293,580 in FY21 which would not have come close to satisfying the deductible. It was recommended to build up the reserve and at the end of FY20 had a balance of about $790,000; by the end of FY21 it will be nearly $1.7 million if we have no paid losses. The state has not had a total of $100,000 in claims for over five years but had been paying about $560,000 in premiums each year, so this Committee recommended the state self-fund for Cyber Liability insurance, he said. The potential extent of claims, however, could be catastrophic. For example, if there was a breach that affected every license holder in the state of Idaho, just the mailing cost alone to notify everyone would exceed $1 million.

Inland Marine coverage is for small items, he continued, and over time has built up its reserve and for the last ten years coverage has been provided at no cost to those agencies that schedule out their items. FY20 ended with a positive balance of $18,331. Boiler (or Energy Systems) coverage also ended the year positively with a variance of $41,716.

Auto Physical coverage ended FY20 with $101,610. Staff has worked hard to keep claims down through offering education to agencies. The deductible was also raised from $500 to $1,000 per incident, as recommended by this Committee, as an incentive for agencies to promote safe driving. The use of rental cars on state contracts has also been encouraged because they come with insurance coverage.

Employee Bonds ended FY20 with a negative $80,213, which is the first time this has happened in many years, he said. This resulted from three losses at the Controller's Office. Property coverage ended FY20 at a negative $49,118, due to the difficult market at this time for property insurance.

FY22 Premiums

From FY21 to FY22, agency receipts increased by about $1.3 million, mostly driven by the increase in liability premiums, Chairman Reynolds explained. Property coverage also increased significantly by about $700,000. Cyber Liability has an anticipated $1.4 million reserve balance at the end of the year and agency billings have not yet been projected. Inland Marine and Employee Bond and Crime premiums will continue to be waived in FY22. Auto Physical receipts continue to be reduced through implementation of cost-saving initiatives, and he said he hopes to see similar results with liability as initiatives are implemented in that line of coverage as well.

UPDATE FROM STATEWIDE RISK MANAGER

July Renewal Outcome and Changes

Ms. Cox pointed out that six major lines of coverage were renewed in July. Property coverage has been difficult to secure at a reasonable rate. Previous coverage was with Travelers with a $350,000 deductible. The renewal secured a 50/50 Code Share Program which is with Travelers and XL Insurance to garner premium relief. This share program also helped reduce dependency on Travelers and encouraged competition between the two companies on rates. In addition, XL has expertise with loss control and safety. The only downfall is if there is a loss that exceeds the deductible there will be two separate claim adjusters to work with, she said.

Initially, the rate increase came in over 50%, but was brought down to 9.47% with the Code Share Program; however, the deductible was increased to $1 million. The overall rate increase is only about 4.74% because the state's property value has gone up from $9.2 billion to $9.6 billion. This Committee had been considering an increase in deductible and going to a self-funding model because of the state's positive loss history, she said.

The second renewal was for Boiler and Machinery, or Energy Systems, for a flat increase of 4.53% which relates to a 4.52% property value increase. Terrorism coverage was also flat with no increase. Public entities are seeing about a 20% or higher increase in Reinsurance coverage, she added, but the state was able to secure it at a 14.17% increase. The policy will now exclude sexual molestation coverage which had been included in prior years. The state will continue to provide this coverage through its self-funded liability program but there will not be the additional protection if a loss occurs for sexual misconduct.

Cyber Liability coverage was offered at a 6% increase but because of the state's positive performance and the fact that there is a tort cap limit, it was determined it was in the state's best interest to also self-fund. If the reserves are high this may eventually be a line of coverage where premiums are waived as well, she said.

Employee Bond and Crime renewed with a 7.68% increase and included a higher deductible due to the lack of controls around losses last year. Those controls have since been put into place. Out-of-State Workers Compensation coverage was placed under a new carrier which decreased costs by 74.19%.

She provided a three-year look-back report covering FY18 through FY20 showing how many claims were received by line of business; how many claims are still open; number of claims in litigation; and, the amount paid to date. Through FY20 there were 332 liability claims and $129,366 has been paid out to date compared to FY17 when over $2.2 million was expended. It takes up to ten years sometimes to settle liability claims, she said. The biggest payouts have been for whistle-blower and employment-related claims.

New Risk Management Information System Update

Origami Risk was selected to implement a Risk Management system, she continued, and it is currently in the testing phase with go-live anticipated by the end of the year. A training plan for all agencies is being discussed with plans to have all users trained by the go-live date.

General Liability Projections Based on New Modeling

In its last meeting, the Committee discussed a new methodology for liability premium projections. The new Risk Management system has no way to implement the current method which was based on a year-over-year update of data collected 30 years ago. Director Tewalt had requested information showing how the new method will affect each agency and she distributed a spreadsheet with that information.

Going forward, premiums will be based on five factors: total building value (10%), employee count (25%), vehicle count (25%), claims history (20%) and claim count (20%). This will be smoothed out at $100,000 so if an agency has a million-dollar loss, it would limit the agency's exposure for the loss to $100,000. Under the old methodology, some agencies had been paying more than their share of premiums such as the Department of Correction and ITD, which are basically the same size they have been for many years. Agencies that have grown over the years will be paying more.

Chairman Reynolds expressed that it's important to administer the premiums consistently and fair. A non-discretionary adjustment will be done through the appropriation process and the new rates will be added automatically to agencies' budgets.

Revised Retained-Risk Document Effective 7/1/20

As the state is implementing self-funded lines of coverage, its Retained Risk Document has been revised to model an insurance policy. Two major changes were made in the process. First, Security and Privacy Liability coverage was added to be consistent with what agencies were used to under an actual cyber insurance policy; agency retention is $10,000 per occurrence. Included is security breach response, multimedia liability, and cyber extortion, for example.

The other revision is adding endorsements when changes are made. Recently added was wages and benefits for employment-related claims which hadn't been covered before. It specifies that agencies will be responsible for $25,000 per occurrence for an employment-related claim. This will make it easier for Risk Management to negotiate settlements because it will not matter whether agencies have funds in their budget for wages and benefits, as they will be covered through the plan.

Representative Gannon asked how disputes between agencies and Risk Management are handled. Chairman Reynolds responded that depending on the claim components, various percentages of coverage would result in a negotiation with agencies. If ever there were a dispute, resolutions would be put into place to avoid such issues in the future. All coverage is statutorily prescribed, he said, and staff looks to provide for coverage whenever possible.

Risk Management Overview Document for Directors and Officers

As administrative and leadership positions change throughout state government, agencies are sometimes confused about what is covered by the state such as errors that occur while an employee acts within the scope of employment.

This high-level overview for management provides brief descriptions and Frequently Asked Questions. She asked the Committee to review and subsequently it will be distributed to all agencies, boards, and commissions. Administrator Buxton offered to include it in the new director's packet of information that is provided to new leadership when hired.

Chairman Reynolds asked Committee members to please let him know if there are any topics they would like addressed in future meetings.

OTHER BUSINESS

The proposed schedule for 2021 meetings of the Risk Management Advisory Committee is:
Tuesday, January 19, 1:30 pm
Tuesday, May 18, 1:30 pm
Tuesday, September 21, 1:30 pm

ADJOURNMENT

Ms. Cox moved that the September 8, 2020 meeting of the Risk Management Advisory Committee be adjourned at 2:30 pm. The motion passed unanimously.

Diane K. Blume

Diane K. Blume, Program Specialist
Department of Administration