RISK MANAGEMENT ADVISORY COMMITTEE (RMAC)

Meeting Minutes

January 14, 2020

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

Members Present:
Bryan Mooney, Director, Department of Administration (DoA) and Committee Chair
Faith Cox, Statewide Risk Manager, Office of Risk Management (ORM)
Travis McGrath, Chief Operations Officer, Idaho Transportation Department
Theresa Chrisman, Assistant to the VP for Finance and Administration, Lewis-Clark State College (via conference call)
Susan Buxton, Administrator, Division of Human Resources (DHR)
Senator Dean Mortimer
Josh Tewalt, Director, Department of Correction

Absent and Excused:
Representative John Gannon

Others Present:
Andy Snook, Chief, Contracts and Administrative Law, Office of the Attorney General (OAG)
Kris Coffman, Risk Management Program Supervisor, ORM
Max George, Risk Analyst, ORM
Kristie Fields, Technical Records Specialist, ORM
Colleen Tarlas, Claims Technician, ORM
Tim Erickson, Claims Adjudicator, ORM
Tracy Whigam, Program Specialist, ORM
Julie Weaver, Deputy Attorney General, OAG
Steve Olson, Deputy Attorney General, OAG
Diane Blume, Program Specialist, DoA

APPROVAL OF MINUTES

MOTION: Senator Mortimer moved, and it was seconded by Ms. Buxton that the minutes of the September 17, 2019 Risk Management Advisory Committee meeting be approved as written. The motion passed unanimously.

FINANCIAL REVIEW

FY19 – FY21 Cash Analysis Report, ending 12/31/19

Mr. Reynolds pointed out FY21 projected beginning balances for all lines of coverage along with receipts, expenditures and insurance premiums resulting in ending balances and estimated unpaid losses. Unpaid losses are projected by the state's actuary, typically in June each year, he said. From those projections, the Statewide Cost Allocations Plan is adjusted, and costs are entered in agency budgets. Those costs totaled $13.7 million in FY21 compared to $10.1 million in FY19 and $13.1 million in FY20.

Unpaid losses, he explained, is the state's liability incurred through its Risk Management program for the different lines of coverage at a certain point in time. That number is targeted, he said, to make sure the state is fully funded for its liability.

FY20 Budget to Actual By Line of Coverage, ending 12/31/19

The first section of this report, *Administration*, is the appropriation for personnel and operating expenditures, he continued. It has a positive variance of $6,497. *Liability* shows a negative variance of about $1.65 million, which is a very significant variation from the projected cost, he stressed. *Cyber Liability's* positive variance is $37,535; there have been no cyber liability claims this year. *Inland Marine* is the coverage for small items; the state has not collected a premium for this coverage for many years. Its positive variance is $9,241. *Energy Systems* has a positive variance of $18,080. *Auto Physical's* positive variance is $74,155, despite an increase in these damages for several years. However, because of efforts such as the recommendation by this committee to increase the agency deductible from $500 to $1,000 and efforts to promote defensive driving, this number has been impacted positively, he said. *Employee Bonds'* positive variance is $17,957, and *Property* is $79,614. Property insurance is another example where proactive actions have reduced claims. The department has a budget request this year to hire a Loss Control Manager whose primary focus will be to look for ways to prevent loss.

He presented a graph of Risk Management's total agency billing spanning five years showing nearly $9 million was billed in FY17 compared to $13.7 million projected for FY21. Affecting some of that increase was adding cyber security coverage of about $1 million in FY18. However, to explain spending spikes, he presented another graph illustrating liability agency billing only. In FY17 costs were just over $2.8 million and in FY21 it is projected to be over $7.1 million. Most of the claims are whistleblower and employment related, he explained.

UPDATE FROM STATEWIDE RISK MANAGER

July Renewals

Ms. Cox recalled that the committee discussed property renewal rates and changes in market trends at past meetings. She distributed a Marketplace Report from Willis Towers Watson that indicates current market increases based on line of business.

Later this month, she said, she will discuss different options for coverage with the state's property broker. The latest renewal, she pointed out, came in with an initial 49% increase which was negotiated down to about 7%. The self-retained deductible was also increased from $250,000 to $350,000. The Marketplace Report indicates that property is up 5% to 15% in 2020 in non-catastrophic states, such as Idaho. For the next upcoming renewal, she said, the state's broker estimates anywhere between a 20% and 50% increase in non-catastrophic states. Carriers are using non-catastrophic states to generate more premium and there is little push-back because there are not a lot of options. Consequently, catastrophic states are seeing lower overall rate increases that non-catastrophic states.

She proposed the committee consider self-funding the state's property insurance or consider a reinsurance option. By the next committee meeting in May, she said she will have some options to present to the committee. Most non-catastrophic states are not entirely self-funded, and they tend to have a higher retention. She proposed Idaho could be a bit more aggressive with property retention; however, the state's actuary will use the state's prior experience to determine the best course of action.

She pointed out in the Marketplace Report that general liability (not including employment practices liability or directors' and officers' errors and omissions) is going up between 2.5% to 7.5%. Under "Excess" (reinsurance) the increase is 15% or more. She pointed out that the state's current reinsurer is asking for a lot of information it has not requested before such as how many officers are armed, whether detention officers are psychologically tested before hire, etc. They also inquired about special events and whether the state hosts them for over 2,500 individuals. Reinsurance policies are not going to be able to be retained if the state doesn't put more controls in place, she said. She anticipates the state's reinsurance policy renewal will be significantly higher in costs, or the carrier may decline to retain the state all together. In anticipation, she asked the state's broker to go to bid as a precaution. The Excess carriers are the ones sustaining most of the costs involved with increased catastrophic property losses, she said.

Loss Prevention Position Update

Funding for this position is part of the Department of Administration's FY21 budget request, she continued. The individual hired will partner with agencies to identify exposures, and one of the major areas of exposure is automobiles. Over the past three years, she said, Risk Management paid out over $2 million in auto property damage. In addition, according to the State Insurance Fund, almost $3 million has been paid toward auto injury claims in the same period.

This position could have a great impact by implementing a defensive driver's program, she said, and that alone could offset the investment of about $96,000 annually to fund this position. Just by having the position in place will allow the state to negotiate better pricing for insurance and services.

Statewide Driving Policy

At its last meeting, she said, the committee authorized Risk Management to move forward with implementing the proposed safe driving policy. Since, the policy has been executed in the Department of Administration to serve as a pilot study before it is extended statewide. Some agencies will have much more strict policies based on their agency needs, she said, but the one adopted by this committee will serve as minimum criteria for all agencies. Ms. Buxton agreed to share the policy with agencies when requested.

New Risk Management Information System Update

Programming for the new system is underway and as a result, processes are being evaluated. Most premiums are easy to calculate and explain; however, the general liability premiums are not, Ms. Cox said. Calculations have been based off the prior year's loss history but going back 20 years there is no documented foundation for how it was initially developed. Premium calculations cannot be implemented in the new system because they are not based on anything tangible. Consequently, staff has identified tangible numbers consistent with every agency that are feasible to use in the calculation. Those tangible numbers include the replacement value of all properties because the more property, the more exposure there is to claims. Other tangibles include number of agency employees and vehicles. The fourth criteria considered will be the agency's claims history. Eventually all four factors will be weighted evenly at 25% but at first, claims history will be less to minimize initial impact on agencies.

New Cyber Incident Reporting Tool

A new comprehensive cyber reporting platform was implemented on January 1 by the Division of Military, she continued. It allows the State of Idaho to collect data on all incidents and breaches and develop a matrix for the Office of Information Technology Services to use to make business decisions. It will also help Risk Management with its reinsurance and cyber liability insurance rate negotiations and set the groundwork for going self-funded. There are 99 agencies that will use the platform for reporting and by December 31st, 69 had received training. The remaining agencies have been notified they must report through the platform.

October Risk Forum Update

Last year's forum was downsized to five classes, she explained, and feedback was positive especially for those sessions presented by state employees such as "Defensive Driving", "Active Shooter Training", "Cyber Incident Reporting Tool", and "Risk Management Best Practices". "Effective Safety Committee" training was offered by the state's broker. Senator Mortimer noted he will discuss with the Pro Tem and Speaker that new legislators would benefit from general risk management and liability training.

June Litigation Seminar

On June 3rd, Ms. Cox continued, a seminar on litigation will be conducted focusing on whistleblower claims, employment retaliation claims, and general employment claims such as sexual discrimination. These types of claims are driving the increase in costs. The broker will hire exerts to conduct the sessions including a trial expert, and OAG will provide training as well. All deputy attorneys general and outside counsel will be invited to participate.

Expansion of Employee Liability Coverage to include Directors and Officers

Ms. Cox indicated she has discovered that many state employees do not understand risk coverage and what Risk Management does. Many believe that they will not be covered for errors they make in the process of conducting their jobs. It's important that officers and directors of the state be better educated because it could stifle employees in their performance if they believe they are not protected. Ms. Buxton added that DHR's Supervisory Academy addresses risk coverage, and its Respectful Workplace training also illustrates what is and is not covered by risk insurance.

One of things it does not cover, Ms. Cox pointed out, is wages and benefits. It was designed this way so that agencies have repercussions for poor employment decisions. Many new directors are surprised when they need to come up with wages and benefits while coping with tight budgets. Consequently, she proposed expanding liability coverage provided by Risk Management. A positive result for Risk Management is that it would be less difficult to negotiate payouts for a claim if it has control over the wage and benefits portion of the payout. When the agency does not have funds to pay wages and benefits, it ends up costing the state more in the long run because the claim remains in litigation longer.

Director Mooney inquired how agencies would be held accountable if they are not required to pay for wages and benefits. Ms. Cox noted that Utah has implemented a new program that assesses agencies a $50,000 deductible when they make employment decisions that result in liability claims without first seeking advice from Risk Management, DHR, and the OAG.

If the committee agrees to investigate expanding liability coverage to include wages and benefits, Ms. Cox said, the state's actuary will be asked to provide a projection of costs. Proposals will then be offered for making sure agencies are accountable. Instead of a financial assessment to ensure accountability, Mr. McGrath suggested agency leadership be held accountable. However, if it is decided to be a financial assessment, he suggested the deductible be scaled to the size of the agency. Mr. Reynolds said if the committee makes a recommendation today and the plan is approved at the May meeting, the expanded coverage could go into effect in July.

MOTION: Ms. Buxton moved, and it was seconded by Senator Mortimer that the committee authorize Risk Management to engage in an actuarial study to identify costs for expansion of liability coverage. The motion passed unanimously.

OTHER BUSINESS

The next scheduled meetings of the Risk Management Advisory Committee are as follows:

May 12th, 1:30
September 8th, 1:30

Senator Mortimer announced that since this is his last legislative session, he asked that a replacement be named on this committee. Senator Thayn has accepted the appointment. He stressed the importance of continuing efforts of this committee. Mr. Reynolds remarked that Senator Mortimer was instrumental in getting the RMAC functioning once again.

ADJOURNMENT

Senator Mortimer moved that the January 14, 2020 meeting of the Risk Management Advisory Committee be adjourned at 2:50 pm.

Diane K. Blume

Diane K. Blume, Program Specialist
Department of Administration