

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

816



FROM: Human Resources Department **SUBMITTAL DATE:** February 25, 2003

SUBJECT: California State Association of Counties-Excess Insurance Authority (CSAC-EIA) Environmental Liability Program (Pollution)

RECOMMENDED MOTION: That the Board of Supervisors approve the County of Riverside to participate in the California State Association of Counties-Excess Insurance Authority (CSAC-EIA) Environmental Liability Program, and authorize the Assistant County Executive Officer/Human Resources Director, or designee, to sign and approve the required documents to enter the program for FY 2002-2003.

BACKGROUND: The purpose of insurance is to transfer the risk of loss to another party through a contract (i.e., a hold harmless clause, or a professional risk bearer such as an insurance company) to avoid the potential of crippling financial losses or catastrophic claims against the County. Liability from pollution is normally excluded to some degree by the general, auto, and umbrella liability policies. In recent years, insurers have attempted to introduce strict exclusionary language into these policies, making it necessary for insureds to seek coverage under separate environmental impairment liability. The County does not have an insurance policy to protect against pollution claims, and claims of this nature would be paid from the General Fund, or other Contingency Funds the Board may provide, if any. The County participates in the CSAC-EIA, General Liability Program II (GLII) that now provides an additional \$25,000,000 of excess insurance coverage above the \$1,000,000 self-insured fund.

(Continued on page 2)

Ronald W. Komers
Asst. County Executive Officer/
Human Resources Director

FINANCIAL DATA:

| | | | |
|---------------------------|-----------------------|--------------------------------|-----------|
| CURRENT YEAR COST: | \$9,925 | ANNUAL COST: | \$29,775 |
| NET COUNTY COST: | None | IN CURRENT YEAR BUDGET: | YES |
| BUDGET ADJUSTMENT: | None | FOR FY: | 2002-2003 |
| SOURCE OF FUNDS: | General Liability ISF | | |

C.E.O. RECOMMENDATION: APPROVE

COUNTY EXECUTIVE OFFICER SIGNATURE

Policy
 Policy
 Consent
 Consent

Department Recommendation:
Per Executive Office:

Prev. Agn. Ref.

Dist. ALL

AGENDA NO.

3.19

BACKGROUND (continued)

However, the GLII Memorandum of Coverage has limited coverage for pollution claims for sudden and accidental releases only, and no coverage for cleanup of owned or leased locations or for water contamination by oil (see comparison below).

CSAC-EIA and Driver-Alliant Insurance Services (Insurance Broker) have developed a joint purchase Pollution Liability Insurance program for member Counties underwritten by Gulf Insurance Group, a subsidiary of Travelers Insurance Group. The Policy applies to sudden and gradual pollution, both on and off site, including coverage for existing but undiscovered pollution. The definition of "pollutant" in the policy includes "...biological irritants or contaminants" excluding molds, both for the liability for illness of occupants of County buildings and for the cost of cleanup. Other indoor air quality exposures (including sick building syndrome) are included as well. The Policy also includes coverage for County owned streets and roads and, therefore, would apply to the County's obligation to cleanup a spill or illegal dumping on a County road. The policy was effective July 1, 2001 and expires on July 1, 2006, and currently has 46 counties participating. Premiums are payable annually. Coverage applies to all County-owned and leased locations, except landfills and transfer stations, and to other County operations such as Sheriff and Fire services, hazardous material response teams, and roadside spraying. Policy limits are \$10,000,000 for each occurrence and \$10,000,000 aggregate, with the aggregate applying to the entire policy term (i.e. does not reinstate annually). Coverage is on a "Claims Made" basis with no retroactive date and applies to third party claims for bodily injury, property damage and cleanup, including first party on-site cleanup with a discovery trigger, arising out of pollution conditions at, on or emanating from a County location or operation. The Policy has a Self-Insured Retention (SIR) of \$100,000, which can be lowered to \$25,000 with additional premium of approximately 20 percent. This program will also allow the County of Riverside to better demonstrate Financial Responsibility for petroleum underground storage tanks pursuant to Title 40, Code of Federal Regulations (CFR), Part 280, Subpart H, commencing with Section 280.90

A brief comparison of the current GLII Program (which the County currently participates) and the proposed Pollution Liability Program is as follows:

CURRENT GENERAL LIABILITY II COVERAGE FOR POLLUTION:

- Third party claims for sudden and accidental releases only (no coverage for gradual pollution, or governmental mandated cleanups).
- Coverage for third party claims for bodily injury and property damage arising out of sudden and accidental pollution at owned and leased sites, but no gradual pollution coverage and no cleanup coverage.
- Coverage for Completed Operations and reclaimed water.
- No coverage for oil contamination of water.

CSAC/EIA POLLUTION PROGRAM COVERAGE:

- Sudden and gradual coverage for third party on or off-site bodily injury, property damage and cleanup at all owned and leased locations (except landfills) plus first party on-site cleanup with a discovery trigger. Includes coverage for existing but undiscovered pollution, and includes coverage for claims arising out of indoor air quality.
- Includes automatic coverage for the County's underground storage tanks installed 1990 and after and above ground storage tanks. Unknown underground storage tanks are also included for coverage.
- Includes coverage for pollution on or from County streets and roads, including illegal dumping and by auto accidents.
- Includes coverage for pollution conditions arising out of the use of County autos whether from the vehicle fluids or hazardous cargo or from another vehicle and the accident was caused by the County's negligence.

BACKGROUND (continued)

- Includes coverage for pollution caused by operations of the County, including sheriff and fire operations, hazardous materials response teams, household hazardous collection events, roadside spraying etc.
- Landfills are not covered since they require special underwriting. They can be covered on a separate policy, however.
- There is no exclusion of radon gas. Asbestos is excluded for all coverages, but lead paint is only excluded for cleanup, not bodily injury and property damage.

We recommend the County enter the CSAC-EIA Environmental (Pollution) Liability Program with the Basic and Automobile Pollution coverage, at an annual premium of \$29,775, effective March 1, 2003. The \$29,775 annual premium will be prorated (\$9,925) to March 1, 2003, and can be absorbed in the General Liability Internal Service Fund at no additional charge to the General Fund for FY 02-03. The annual premium for FY 03-04 will also be absorbed in the General Liability Fund, since that budget is nearing completion at this time. However, the FY 04-05 annual premium will be included in the FY 04-05 General Liability allocation to departments.