



SCHOOLS EXCESS LIABILITY FUND EXECUTIVE COMMITTEE MEETING MINUTES

Time: Thursday, September 16, 2021, 1:00 P.M.

Webinar Meeting Location: Pursuant to Executive Order: N-35-20

Log-In Information: <https://us02web.zoom.us/j/85990235499?pwd=MTRnNmtRYVM5OVprTS9DeVNuWkZRQT09>

MEMBERS

Renee Hendrick, Chair	Area VI Representative
Craig Schweikhard, Vice Chair	Area V Representative
Toan Nguyen, Comptroller	Area VI Representative
David Flores, Secretary	Area II Representative
Steve Salvati, Member-at-Large	Area VI Representative

ALTERNATES

Cindy Wilkerson, Member Services & Communications Committee Chair	Area VI Representative
Tony Nahale, Workers' Compensation Claims & Coverage Committee Chair	Area VI Representative

GUESTS

Leilani Aguinaldo	School Services of California, Inc.
Mark Priven	Bickmore Actuarial

STAFF

Dave George	Chief Executive Officer
Phil Brown	Chief Fiscal Officer
Lois Gormley	Director of Communications and Member Services
Jimmy Rowe	Director of Claims
Susan Casey	Executive Assistant

I. CALL TO ORDER

Committee Chair Renee Hendrick called the meeting to order at 1:00 p.m. Executive Assistant Susan Casey called the roll and confirmed the presence of a quorum.

II. AGENDA – September 16, 2021

A. Amendments/Adjustments

Hendrick proposed taking Items VI. B. and C. before Item VI.A.

B. Approval

Schweikhard made a motion, seconded by Salvati, to adopt the agenda as amended.

Vote: Hendrick – aye
Schweikhard – aye
Nguyen – aye
Flores – aye
Salvati – aye
Wilkerson – aye
Nahale – aye

Motion passed.

III. MINUTES –May 13 & 26, 2021

A. Amendments/Adjustments

None.

B. Approval

Salvati made a motion, seconded by Flores, to approve the minutes of the May 13 and May 26 meetings as presented.

Vote: Hendrick – aye
Schweikhard – aye
Nguyen – aye
Flores – aye
Salvati – aye
Wilkerson – aye
Nahale – aye

Motion passed.

IV. PUBLIC COMMENTS

There were no members of the public who wished to address the Executive Committee.

V. CHIEF EXECUTIVE OFFICER'S REPORT

George provided an update on recent activities. He said SELF had two webinars highlighting changes made this year to SELF's MOC, and he estimated that about twenty people participated, primarily from JPAs. He noted that the feedback was positive, and SELF will continue its efforts to educate members about the changes.

George advised that over the summer, the Aon/Willis deal fell apart, and Gallagher decided not to purchase WillisRe, but that decision was reversed about six weeks ago. He stated that the Gallagher purchase transaction is moving forward. He noted that this transition will likely have little effect on SELF's relationship with its brokers.

George reported that SELF would be meeting the following day with Marilyn Kelley, the CAJPA accreditor, who had worked as SELF's broker for a number of years. He added that he would have more to report on the accreditation process after that meeting.

George indicated that he would be providing an update on AB218 funding and next steps later in the meeting.

George congratulated the staff for its diligent efforts to collect the AB218 assessments. He said there are only seven unpaid invoices of the 1,179 that were sent out. He displayed a chart showing a breakdown of assessments and payments by member type, and he pointed out that about 85 percent opted to pay the entire amount up front rather than yearly installments. George noted that 33 of the invoices were deemed uncollectable because their member entities are no longer operating and no successors can be identified. He reviewed the status of the remaining seven unpaid invoices.

Salvati asked if the 33 uncollectable invoice amounts would need to be paid by the other members. George responded that was correct theoretically. He estimated that the total difference is probably about \$24,000.

George said SELF's governing documents require the staff to present the Board with a report identifying delinquencies and recommending further action for the Board's consideration. He indicated that the report will come to the Board at its October meeting.

George stated that SELF plans to provide members with annual reports on the AB 218 program to keep them apprised and educated as the extent of liabilities becomes clearer. He noted that the staff has already started working on the report, which will now incorporate the June actuarial results, with expected completion later this fall.

George advised that he has been talking with Bickmore about doing a more detailed and focused analysis of AB 218. He said the next actuarial report, based on data through October 31, will include further discussion of AB 218 impacts. He noted that Director of Claims Jimmy Rowe and Craig Bowlus will work with Bickmore to provide details on SELF's reserving and claims management practices. He remarked that the next actuarial report will also better inform the Board about the timing of a second assessment.

George provided a summary of recent member outreach activities. He said he traveled throughout Southern California during the summer to meet with a number of pools, and met with other member districts more recently.

Hendrick thanked George for his report.

VI. INFORMATION/DISCUSSION ITEMS

B. Excess Liability Program Actuarial Study 6/30/21 (Out of Order)

Mark Priven, Bickmore Actuarial, gave a PowerPoint presentation on the actuarial study of the Excess Liability Program based on information through June 30, 2021. He said that activity during that period was very favorable, excluding AB 218 claims. He noted there were very few reported claims in the SELF layers, new reserves, or claim payments. However, he pointed out, ultimate losses overall increased by \$2 million due to AB218 activity. Priven stated that AB 218 was not favorable and outweighed non-AB 218 activity.

Priven provided a snapshot of the overall change in liabilities, reflecting increases in case reserves, IBNR, and claims administration (ULAE) liabilities, partly due to increases in ultimate losses in older years, and partly reflecting an additional eight more months of exposure without any offsetting payments.

Priven reviewed a breakdown of AB 218 activity. He noted that IBNR went up by \$2.4 million, case reserves increased \$3.9 million, and there were \$3.2 million in payments.

Hendrick asked if treble damages were included in the estimates of IBNR and case reserves. Priven replied that the IBNR includes the total estimated impacts of AB 218, covering the statute of limitations, triple damages, and the different definitions and interpretations of terminology. He noted that SELF might not incur treble damages, so that actual amount may be lower, but the number of new claims is higher than expected.

Salvati commented that AB 218 is being contested before the state supreme court, so the matter is not settled.

Schweikhard remarked that although the damage multipliers are not covered by SELF, they do have an effect on members. Priven agreed, and noted that the size of some claims could be inflated as a result of that possibility.

Schweikhard observed that although program losses went up, program assets also increased. Priven confirmed that understanding.

Priven presented a summary of liabilities at a few different discount rates and confidence levels. He reviewed actual versus expected activity in the \$4 million excess of \$1 million and in the excess of \$5 million layers, including AB 218 claims. He said that aside from AB 218 claims, recent experience has been favorable, suggesting that 2016-17 was an anomaly. Priven displayed a slide depicting losses according to incident year, policy year, claim payments, case reserves, and IBNR.

Schweikhard drew attention to Page 32 of the report for a recap of the impacts of AB 218. He said his rough calculations shows a difference of \$13 million between the current \$46.6 million assessment and the new estimate of \$61 million. He acknowledged that much of the \$61 million is IBNR, and actual losses might be lower. Priven confirmed that understanding.

Hendrick thanked Priven for his report.

C. Excess Workers' Compensation Program Actuarial Study 6/30/21

Priven reviewed and discussed the results of the annual actuarial study for the Excess Workers' Compensation Program. He stated that activity has been very favorable, as liabilities and IBNR continue to go down. He said the discount rate was decreased from 2.75 to 2.5 percent, which had a small impact on overall liabilities.

Priven noted that case reserves have gone down as claim payments have gone up, showing that old claims are being closed and settled within the reserve amounts, resulting in decreases in IBNR and administrative liability.

Priven displayed a slide showing expected liabilities at different discount rates and confidence levels. He presented a graph depicting case reserves and open claims going down over time. He said incurred losses have remained steady overall and even decreased slightly for very old years.

Hendrick thanked Priven for his report.

D. 2021/22 Strategic Planning Meeting

George referred to the draft agenda in the meeting packet, and he welcomed thoughts and feedback from committee members. He noted that the theme for this year's strategic planning meeting will be a focused look at the risk financing structure, and that topic will take up most of the first day. He said participants will also address governance issues.

George advised that there is currently no mask mandate in San Diego County, but that situation could change.

VIII. CLOSED SESSION

Flores made a motion, seconded by Nguyen, to adjourn to closed session for the purpose of discussing anticipated litigation.

Vote: Hendrick – aye
Schweikhard – aye
Nguyen – aye
Flores – aye
Salvati – aye
Wilkerson – aye
Nahale – aye

Motion passed. The committee adjourned to closed session at 1:31 p.m.

A. Anticipated Litigation

Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9 (One matter)

At the conclusion of the closed session, Salvati made a motion, seconded by Schweikhard, to resume the open meeting.

Vote: Hendrick – aye
Schweikhard – aye
Nguyen – aye
Flores – aye
Salvati – aye
Wilkerson – aye
Nahale – aye

Motion passed. The open meeting was resumed at 1:46 p.m.

Hendrick reported that during the closed session, the Board gave direction to staff but took no other reportable action.

VI. INFORMATION/DISCUSSION ITEMS (Continued)

A. Bill Report

Leilani Aguinaldo, School Services of California, Inc., referred to the written bill report in the meeting packet. She noted the Legislature adjourned for the year on August 10. She said 2020-21 was the first year of the two-year legislative cycle, and bills that did not move forward to the governor's desk this year remain viable for the coming year. She noted that the first two pages of the report provide a summary and table of contents for all of the bills being monitored, and the ones being carried over are designated as two-year bills.

Aguinaldo advised that SELF took positions on only four bills that went to the governor, including AB 438, a bill that would change the layoff process for classified employees. She said SELF worked with a coalition of other organizations to try to defeat the bill in the Legislature, but it

eventually passed. She indicated that October 10 is the deadline for Governor Newsom to sign or veto bills that have reached his desk.

Aguinaldo reported that through the efforts of a strong coalition led by the Chamber of Commerce, significant amendments were made to SB 606, pertaining to workplace OSHA violations, to make the bill more palatable to employers if it is signed by the governor.

Aguinaldo said another bill of interest to SELF is SB 788, pertaining to workers' compensation risk factors. She noted that SELF and others opposed the bill, but it was successfully amended to remove age and genetic characteristics as factors that may be considered in calculating the percentage of permanent disability.

Aguinaldo stated that SELF successfully led the fight to hold SB 681, a bill that would have allowed school police to receive reports from mandated reporters on sexual abuse and molestation claims. She said the bill was eventually pulled from committee and was not heard. She added that she would monitor this bill closely because it could be resurrected as a two-year bill.

Hendrick asked how the governor is expected to act on the bills before him. Aguinaldo replied that it will be tough for Governor Newsom to veto AB 438, which is one of the biggest priorities of the California School Employees Association. She indicated that the administration has been receptive to hearing the concerns of school district employers about implementation, but the fate of the bill is uncertain.

Aguinaldo said she thought the governor would sign SB 606. She remarked that although the bill was initially labeled as a "job killer" by the Chamber of Commerce, the negotiated amendments have tempered their opposition.

Salvati noted the report indicates that SB 722, mandating staff supervision at pools, has gone to the governor's desk. He explained that if the bill passes, a district would be liable if an accident happened when no staff was supervising. He pointed out that if the bill takes effect on January 1, all members should be alerted. Aguinaldo said she would check the implementation timeline. She noted that unless there is a delayed implementation provision, the bill would take effect January 1. She confirmed that School Services will work closely with SELF and others to make sure any such changes are publicized.

Director of Communications and Member Services Lois Gormley said SELF cosponsors a webinar with ASCIP and School Services every fall to let members know about new legislation so they can be prepared at the beginning of the year.

Hendrick thanked Aguinaldo for her report.

IX. FUTURE MEETINGS

The committee reviewed the schedule of upcoming meetings.

X. ADJOURNMENT

There being no further business, Flores made a motion, seconded by Schweikhard, that the meeting be adjourned.

Vote: Hendrick – aye
Schweikhard – aye
Nguyen – aye

Flores – aye
Salvati – aye
Wilkerson – aye
Nahale – aye

Motion passed. The open meeting was adjourned at 1:57 p.m.