


**AGENDA ITEM 5D**

To: Jim Provenza, Chair  
and Members of the Board of Directors

From: Mat Ehrhardt, P.E., Executive Director/APCO 

Date: June 9, 2021

**Subject: Approve Resolution No. 21-02 to Authorize Participation in the Employment Risk Management Authority**

**Recommended Action**

Approve Resolution No. 21-02 to participate in the Employment Risk Management Authority (ERMA) program for Employment Practices Liability coverage.

**Background**

The District participates in the Yolo County Public Agency Risk Management Authority (YCPARMIA) along with numerous other public agencies in Yolo County for purposes of providing oversight, administration, and pooling for various insurance programs. As a best management practice, the coverage through YCPARMIA pays claims up to a self-insured retention amount. For claims over that amount, YCPARMIA member agencies belong to an Excess Liability Joint Powers Authority. To ensure the best value and coverage for members, YCPARMIA recently changed providers for this excess liability coverage. The new provider does not cover claims arising from employment-related liabilities such as employee harassment or discrimination.

Possible costs of investigation and litigation (exposure) for employment law matters can be prohibitive to an employer and is best addressed through a pooling of resources and coordinated effort towards ensuring best management practices are following to avoid claims.

The Board of YCPARMIA has approved an intention to join the Employment Risk Management Authority (ERMA) JPA for coverage related to employment law matters. Completing this enrollment requires each member agency to adopt a resolution.

**Program Overview**

ERMA has been providing employment law risk management coverage for over twenty years and comprises 11 JPA's members and two individual members. Assets as of 3/3/20 were \$30,458,550 with expected liabilities of \$18,809,475. YCPARMIA's self-insured retention level is set to \$500,000, with ERMA providing excess coverage up to \$2.5M. Funding is maintained at the 80% confidence level.

Participation in ERMA includes access to employment law trainings (67 trainings conducted in California for FY20/21), Employee Protection Line as an option for reporting wrongdoing (confidential reporting tool), access to training courses in compliance with AB1825, AB1234, and SB1343 (harassment and discrimination training), access to one hour per month legal consultation from either Liebert Cassidy Whitmore or Jackson Lewis public sector employment law firms, an objective and qualified investigation panel, and an approved and experienced defense panel to handle claims.

ERMA Loss Preventions services are designed to minimize the Employment Practices Liability exposures of members. These services include live and online training focusing on employment-related topics and sexual harassment prevention and response, which meets California State mandated training requirements.

**Obligations of Membership in ERMA:**

- The YCPARMIA Executive director will become a Member of the ERMA Board of Directors
- There is a 3-year Membership commitment to ERMA. However, if a Member of YCPARMIA were to terminate membership in YCPARMIA, they would no longer be qualified as a member of ERMA and would be terminated. The member would then have an opportunity to join ERMA on an individual basis if desired. As with YCPARMIA, a member of ERMA would have continuing financial obligations for the years in which they participated until those years are closed.
- To cooperate in the management of claims with YCPARMIA and ERMA
- ERMA has the right to settle any claim in excess of the YCPARMIA retained limit up to the ERMA Limit of Liability
- To comply with ERMA training requirements

**Budget Impacts**

YCPARMIA's FY 2021/2022 coverage costs are inclusive of the costs for participation in the excess coverage pools. This is reflected in the Proposed Budget for the District.

**Recommendations**

With Board approval of this Resolution, the APCO will sign the Intent to Participate and provide a copy of the approved resolution to YCPARMIA.

Attachments: Resolution No. 21-02

**RESOLUTION NO. 21-02**

**Resolution of the Yolo-Solano Air Quality Management District Authorizing Participation in the  
Employment Risk Management Authority (ERMA)**

**WHEREAS**, the Yolo-Solano Air Quality Management District (District) wishes to obtain Employment Practices Liability coverage for the period July 1, 2021 through June 30, 2024; and

**WHEREAS**, the Employment Risk Management Authority (ERMA) is a self-insured joint powers authority created for the sole purpose of Employment Practices Liability Coverage (EPL); and

**WHEREAS**, ERMA is comprised of various public entities who risk share up to \$1 million against potentially unlawful employment practices and discrimination claims; and

**WHEREAS**, ERMA formed primarily due to the fact that government entities have not historically been able to secure EPL coverage at a competitive cost through the commercial insurance marketplace; and

**WHEREAS**, ERMA has met all of the high professional standards established by the California Association of Joint Powers Authorities (CAJPA) in the areas of governance, finance, claims control, safety and loss control and is fully accredited by CAJPA; and

**WHEREAS**, CAJPA's accreditation process requires reviews by independent consultants in the areas of accounting, claims adjusting, and actuarial analysis; and

**WHEREAS**, ERMA provides services to both Joint Powers Insurance Authorities and individual public entities; and

**WHEREAS**, the District has determined that it is in the best interest to become a member of ERMA for the purpose of obtaining Employment Practices Liability coverage; and

**WHEREAS**, ERMA requires a resolution expressing the desire of the District to participate in ERMA and its commitment to a three-year minimum participation period as long as the District remains a Member in good standing with the Yolo County Public Agency Risk Management Insurance Authority (YCPARMIA); and

**WHEREAS**, should District withdraw from YCPARMIA before the three-year period has elapsed, District is not required to remain a member of ERMA for the remainder of the three years; and

**WHEREAS**, District also understands it will be bound by the provisions in the ERMA Joint Powers Agreement just as though it were fully set forth and incorporated herein whether the District had signed it individually or through an underlying Joint Powers Insurance Authority.

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**NOW, THEREFORE, BE IT RESOLVED BY THE YOLO-SOLANO AIR QUALITY MANAGEMENT DISTRICT BOARD OF DIRECTORS THAT IT HEREBY:**

1. Approves participation in ERMA as long as the District remains a Member of YCPARMIA; and
2. Authorizes Mat Ehrhardt, Air Pollution Control Officer/Executive Director for District, to take any and all actions necessary to implement the foregoing resolution.

**PASSED AND ADOPTED** by the Board of Directors of the Yolo-Solano Air Quality Management District this 9th day of June, 2021, by the following vote:

Ayes:

Noes:

Absent:

Abstain:

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Jim Provenza, Chair - Board of Directors  
Yolo-Solano Air Quality Management District

Attest:

Approved as to Form:

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Denise Almaguer, Board Clerk

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Hope P. Welton, District Counsel