



1750 Creekside Oaks Drive, Suite 200, Sacramento, CA 95833
(800) 541-4591 Fax (916) 244-1199
<https://www.planjpa.org/>

ANNUAL WORKSHOP SESSIONS AGENDA

Wednesday, December 3, 2025
Session One: 10:00am
Session Two: 1:00pm
Session Three: 3:00pm

The Lodge at Tiburon
1651 Tiburon Blvd
Tiburon, CA 94920

In compliance with the Americans with Disabilities Act, if you need a disability-related modification or accommodation to participate in this meeting, please contact Kassandra Batista at (916) 244-1103 or Kassandra.Batista@Sedgwick.com. Requests must be made as early as possible and at least one full business day before the start of the meeting.

Documents and materials relating to an open session agenda item that are provided to the Pooled Liability Assurance Network (PLAN) JPA Board of Directors less than 72 hours prior to a regular meeting will be available for public inspection at 1750 Creekside Oaks Dr., Suite 200, Sacramento, CA 95833.

<u>Page</u>		<u>Time</u>
1.	WELCOME AND INTRODUCTION	10:00 AM
2	2. SESSION ONE: LITIGATION AND CRISIS MANAGEMENT COMMUNICATIONS	10:30 AM
3	3. SESSION TWO: DIVIDEND POLICY DISCUSSION	1:00 PM
7	4. SESSION THREE: DESIGN IMMUNITY AND DANGEROUS CONDITIONS WITH SAFETY NATIONAL	3:00 PM

NOTICES:

- The next Board of Directors Meeting will be held on December 4, 2025, at 9:30 am, at The Lodge at Tiburon.
- The next Board of Directors Meeting will be held on March 11, 2026, location TBD.

* Reference materials enclosed with staff report.

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Agenda Item 2.A.

SESSION ONE:
LITIGATION AND CRISIS MANAGEMENT COMMUNICATIONS

BACKGROUND AND HISTORY:

PLAN JPA is excited to feature a three-panel discussion with Marc Zafferano, Esq., Todd Masters, Esq. and Kevin Gilbert, Esq. focusing on practical resources and strategies for public entities in high profile cases including, civil rights. The panel will discuss exemplar scenarios, responses, who may be in the best position to respond and, the effect responses may have on litigation/ liability. Comments and questions from the audience are encouraged.

Discussion to be moderated by Amanda Griffith, Esq. – Interim Litigation Manager for PLAN JPA.

REFERENCE MATERIALS ATTACHED:

None

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**SESSION TWO:
DIVIDEND POLICY DISCUSSION**

BACKGROUND AND HISTORY:

Min Su, former Finance Manager of PLAN JPA, will be present at the Strategic Planning Meeting to discuss the potential for a release of dividends from PLAN JPA.

Dividend Policy:

PLAN JPA's Liability Program Master Program Document Section E.1. outlines the policy for calculating dividends (Dividend Policy).

The Dividend Policy states:

- Dividends shall not reduce the total equity for all program years below a discounted 90% confidence level.
- Dividends may not be declared from a program year until five (5) years after the end of that program year.
- Dividends are reduced if any of the five (5) most recent program years have negative equity.
- Dividends may only be declared if the equity at the expected confidence level is five (5) times the limit of coverage.

Preliminary Estimate of Available Dividend:

Based on unaudited data, \$11.5M of equity may be returned to PLAN JPA Members.

- As of the last actuarial report assessing PLAN's equity balance, PLAN JPA has equity surplus above the 90% confidence level, and PLAN's assets exceeded the 90% confidence level of claims liabilities by approximately \$17.7M.
- Eligible program years include program year 2019-20 and prior. Of the most recent five (5) program years, there is negative equity in program years 2020-21, 2021-22, and 2023-24, which total approximately \$6M in negative equity.
- Equity in the Liability Program as of June 30, 2025, is approximately \$28.7M, which is greater than five (5) times the current limit of coverage of \$1M.

Historical Allocation of Available Dividends

In or around 2006, ABAG Corporation (the predecessor to PLAN JPA) determined that dividends would be allocated as follows:

- Loss Allocation
 - Losses would be attributed to each member, depending on if they were responsible for a claim, but such attributed losses would be capped at \$250K per occurrence (\$250K is the highest Member SIR that is able to be selected by the members of the pool. These losses were known as the "250K Capped Paid Losses."

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- The amounts above the 250K Capped Paid Losses were allocated to each member based on a pro-rata percentage of premiums paid for a given program year. These losses were known as the “\$250K Pooled Paid Losses.”
- Excess Insurance Costs would be allocated based on population of the member cities, similar to how PLAN JPA currently allocates those costs for the Liability Program for budgeting purposes.
- Loss Prevention Expense, and Accounts Payable for the current year (along with, presumably, other expenses) were allocated based on a pro-rata percentage of premiums paid.

Decision Points for the PLAN JPA Board of Directors:

Decision points for the PLAN JPA regarding this issue include:

1. Whether equity should be released from the pool in the form of a dividend.
2. How any dividend ought to be allocated among the members.
3. The timing of any such dividend release.

A document outlining considerations related to these decision points is attached to this Staff Report.

REFERENCE MATERIALS ATTACHED:

- Dividend Estimate – Liability Program
- PLAN JPA Dividend Policy – Decision Points Outline

Dividend Calculation:

Equity by Program Year:	2025	2024	2023	2022	2021	2020	2019 and Prior
Annually Allocated Amounts:							
Contributions	\$ 27,275,800	\$ 22,473,839	\$ 19,630,455	\$ 16,725,154	\$ 12,775,098	\$ 10,389,030	\$ 8,899,743
Investment Income	3,422,170	2,536,737	867,017	(1,817,829)	187,807	2,147,430	2,000,298
Annual Expenses	(20,873,968)	(17,726,546)	(13,520,043)	(12,350,697)	(6,852,757)	(5,117,782)	(3,855,016)
Claims Paid (Net of Recoveries)	-	(17,877)	(987,109)	(1,922,802)	(5,364,696)	(4,648,790)	(1,335,004)
Claim Liabilities at Expected CL, Discounted	(7,372,199)	(7,918,310)	(3,630,595)	(3,549,935)	(4,358,508)	(1,334,534)	255,297
Extraordinary Items:							
Transfers in from Previous Program Years	-	-	-	-	-	-	39,987,264
Assessments	-	-	-	-	-	-	-
Dividends	-	-	-	-	-	(757,522)	(420,130)
Restatement of Equity	-	-	-	1,006,907	-	-	-
Adjustments for Prior							
Prior: Dividend (Payable as of 6/30/2018)							(248,076)
Prior: Claims Paid (Net of Recoveries)							(33,982,206)
Prior: Revaluation of Claims Liabilities (6/30/2018 vs. 6/30/2025)							18,070,067
Equity	\$ 2,451,803	\$ (652,156)	\$ 2,359,726	\$ (1,909,202)	\$ (3,613,056)	\$ 677,832	\$ 29,372,238
Total Equity (Program Year Basis)	\$ 28,687,185						
Total Equity (F/S Basis)	\$ 28,708,516						
Reconciling Difference	\$ (21,332)						
Negative Equity Years	\$ (6,174,414)						
Calculation:							
Total Assets	\$ 58,053,047	To be updated once 2025 Audited Financials Complete.					
Total Claims Liability 90% CL, Discounted	\$ (40,114,000)						
Other Liabilities	\$ (262,221)						
Equity w/ losses at 90% CL (Maximum Available Dividend)	\$ 17,676,826						
Negative Equity Years	\$ (6,174,414)						
Net Available Dividend	\$ 11,502,412						

PLAN JPA Dividend Policy – Decision Points Outline

Decision #1: Whether equity should be released from the pool in the form of a dividend.

The risk tolerance of the members and PLAN JPA as a whole should be considered, and the PLAN JPA Board should weigh the benefit of releasing a dividend to its members versus any harm that might occur to the long-term solvency of PLAN JPA.

- Greater flexibility in the budgeting decisions of the members can be afforded by an outright release of the dividend to the PLAN JPA members.
- The PLAN JPA Board may consider releasing a portion of the available dividend now and then take a wait-and-see approach as loss years continue to develop.
- The PLAN JPA Board may decide that payment of the dividend be used to offset future contributions to PLAN JPA.
- The PLAN JPA Board may decide to retain the surplus in the pool and contribute it to a Captive.

Decision #2: How any dividend ought to be allocated among the members.

Considerations related to ease of calculation, equity, fairness, and history, should be considered in allocating any available dividend determined to be released.

- A ‘proportional allocation’ would be to allocate the available dividend based on the contributions paid to PLAN JPA for all years which there is adequate contribution history.
 - Contribution history is available from fiscal year 1986-87 to today.
- A ‘loss experience adjustment’ approach may be used. This approach penalizes members with poor loss history and rewards members with good loss history.
 - The loss history of individual members could be calculated, and that amount would be netted against their contributions to determine the surplus amount allocable to each member.
- A ‘hybrid’ approach would be to weigh both the ‘proportional allocation’ and the ‘loss adjustment approach.’
 - The historical methodology of ABAG Corporation takes a hybrid approach.

Decision #3: The timing of any such dividend release.

Choosing when to release the dividend depends on the available liquidity of the pool and the budgeting needs of the members.

- Due to the investment return available from short term investments, PLAN JPA is heavily invested in liquid assets, and therefore has sufficient liquidity to release a dividend to its members currently.
- PLAN JPA Board of Directors should determine whether they feel that a particular timeframe of the dividend release is optimal for their own fiscal budgeting process.

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**SESSION THREE:
DESIGN IMMUNITY IS NOT IMMUNITY**

BACKGROUND AND HISTORY:

Risk Control is excited to announce a special presentation at December's Annual Strategic Planning Session focused on Design Immunity Is Not Immunity presented by Jared Smith with Safety National.

Title:

Design Immunity Is Not Immunity: Understanding the Hidden Liabilities in Public Infrastructure for California Entities

Summary:

In this webinar we will use current case law to educate public entity decision-makers, engineers, and risk managers on the limits of design immunity, the evolving legal standards, and how poor documentation or maintenance can void immunity — exposing agencies to costly liability.

REFERENCE MATERIALS ATTACHED:

None