

**AGENDA ITEM 9B.
MANAGEMENT LIABILITY INSURANCE**

Submitted for: Information

Summary: This discussion involves the various protections in place that shield the agency, various staff members, and the Commissioners from personal liability for claims that could arise from the agency's business operations. Those protections include a management liability insurance policy and various constitutional and statutory protections, all of which are explained in greater detail below.

The first layer of protection is provided by various constitutional or statutory provisions. Under certain circumstances, as government officials, the Commission and ISAC staff have protections afforded them by virtue of their status as public employees or because ISAC is a state agency. The Eleventh Amendment to the United States Constitution provides sovereign immunity to the individual fifty states. Sovereign immunity rests on the principle that a state cannot be sued by its citizens unless it chooses to allow such actions. In Illinois, the General Assembly has decided that citizens may initiate lawsuits for contractual and tort claims against the State only within the Illinois Court of Claims. All such claims are limited to \$100,000 per claimant (except in certain cases like motor vehicle accidents that are not pertinent to this discussion.) This means that if ISAC was sued by naming a Commissioner or staff member in his or her official capacity, (the technical means for suing the State since as a practical matter the State cannot be sued except through its officials), the agency's liability for any tort or contract claim is limited to \$100,000. There is no personal liability to Commissioners or management for actions initiated in the Court of Claims.

In addition to sovereign immunity, Commissioners and ISAC employees are also afforded some protection under the State Employee Indemnification Act. This Act provides a mechanism for state employees and Commissioners to request representation from the Illinois Attorney General's office if sued over an act or omission related to their official duties. It provides for legal representation at no personal cost and also allows for claims to be paid in amounts up to \$150,000. Should a claim exceed this amount, the Commissioners and specific management staff would then be covered by the agency's insurance policy that is also the subject of this discussion.

The third layer of protection is the agency's management liability insurance policy, which is currently up for renewal. The current policy covers up to \$10 million dollars in aggregate liability with a \$100,000 deductible if paid on behalf of the agency with a zero deductible if paid on behalf of Commissioners or staff. ISAC recently procured the services of Mesirow Financial Insurance Services ("Mesirow") in order to obtain quotes for a new insurance policy. After soliciting quotes from thirteen different insurance carriers and obtaining quotes from three, Mesirow

recommended to agency staff that we continue the current level of coverage by renewing the policy with AIG Insurance Group. A summary provided by Mesirov that describes the process for obtaining these quotes as well as the coverage amounts and costs will be handed out at the meeting and is attached here for ease of reference.

The legal protections described above, in conjunction with the insurance policy the agency intends to renew, provide sufficient safeguards to protect Commissioners and various agency employees against personal liability for official acts and omissions.

Action requested: No action requested.