State of the Market Report: A Look into the Public Entity Marketplace

As we head into 2024 there is cautious optimism. The market is sitting on a razor's edge coming off a relatively clean loss year and smoother treaty renewal, but we must still account for increased attachment from 2023 renewals.

In our view, the property market is beginning to show signs of improvement. We anticipate the pace of rate increases to slow down for most insureds, including public entities. Markets have secured their treaty renewals in a much more orderly fashion for 2024 versus 2023; however, with the general commentary being smaller rate increases and available capacity, the one constant from 2023 is the attachment point for most markets remains unchanged. From a historical perspective, this attachment point is much higher than in previous years. So, while the overall message is better than 2023, there is still a bit of caution as markets move into 2024.

Despite most markets coming off a clean year from a hurricane perspective, 2023 was one of the costliest tornado/hail/severe convective storm (SCS) years in recent history. These losses ultimately impacted the bottom line of market profitability and will have an added focus for 2024. It wasn't too long ago that markets did not model or account for tornado/hail which is now considered a secondary peril and modeled, rated against and utilized to set line size.

The key areas of differentiation for public entities in 2024 will remain investments in risk management and loss control, adequate valuations (and explanation of process), clean loss history and the need to provide detailed underwriting data.

In this report

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Property Market Trends and Pricing

While the January 2024 reinsurance renewal season was much more organized and 2023 saw fewer extreme weather events overall, public entities still remain one of the more challenged classes when it comes to property coverage due to accumulation of values, questions about ITV, aging infrastructure and protective safeguards in place to keep attritional losses out of the program.

As we move through the year, we expect rates to level out on some layers while increasing in others. A multitude of markets are stating increased capacity for 2024; however, this increased capacity will be slight and dedicated to the best programs. It will help to eliminate the opportunistic pricing insureds were forced to utilize for some of their 2023 program which, in some instances, resulted in the last 10%-20% of layers being priced much higher than the bulk of the layer.

Shared and layered programs will look to eliminate the most opportunistic pricing in 2024 and in so doing, bring pricing more in line. This will lead to a more even renewal process – when compared to 2023 – and in some instances may create a small rate decrease (absolute best-case scenarios) on a blended basis.

Where insureds will still feel some lasting effects of 2023 will be in the high excess layers on the larger programs. With most markets focusing on primary and buffer layers, or even first excess layers, the high excess layers have fewer markets with the ability to offer large chunks of capacity at competitive pricing or even useable capacity (based on pricing). With this lack of competition in the high excess layers, the markets that focus in this area of the market will be pursuing higher rate increases versus the rest of the program.

At the same time, there is limited excess capacity for severe convective storm exposures, which is a concern for this sector as public entities often have significant exposures in a small geographical area. Excess carriers are either seeking higher attachment points, requiring significant rate increases or both. In some instances, facultative reinsurance can be utilized to off-set the limited options in this area of the program.

Be on the Lookout

Coverage in convective storm-prone areas, especially for higher layers, is increasingly difficult to secure. For many, it has become the most difficult layer to complete, often requiring several additional markets and adding cost to a program.

California has the largest number of public entity pools in the country. They are sharing information and working together to better respond to risk and manage the challenges facing the region. However, until they can collectively manage exposure, rates will remain high.

While 2024 appears that it will be more favorable than 2023, insureds will have to differentiate themselves from the pack to secure the best terms available in the market.

Casualty Market Trends and Pricing

Public entity liability markets continue to effect limit compression to mitigate loss and overall portfolio volatility. Mature market participants are actively monitoring both venue and coverage-specific claim outcomes which is crucial to informing capacity positions in an effort to ensure long-term premium to limit adequacy. Ventilation strategies – whereby markets deploy capacity in segmented layers with gaps in attachment in the tower – continue to gain favor as a limit management strategy by markets.

In 2023, the renewal cycle presented an average deceleration of rate and retention within Amwins' portfolio – continuing the trend of the prior two years. Now, renewal outcomes are moving less as the overall market shifts and are more in line with individual risk loss performance trends.

Reinsurer and carrier pricing models continue to lean more towards conservative trend selections and increased limit factors, creating notable variances in some layer self-funding analytics. Consequently, structured solution alternatives are building momentum as the middle ground between risk transfer and self-insurance.

Law Enforcement Liability

Law enforcement liability remains a focal point in the underwriting process and is of particular concern to many municipalities due to heightened media attention, civil unrest statistics and Federal court considerations. As a result, it has not only been a struggle for cities to secure both adequate and affordable policy terms from a shrinking pool of available marketplace participants, but to effectively recruit and retain law enforcement personnel.

Hope can be found in the fact that many law enforcement officials are working to proactively support officers through compensation and technological resources. They are now more likely to engage with municipal risk management staff to implement robust training processes and safety procedures for the staff they do have, as well as offer access to mental health and social services.

At the same time, insurers and brokers are taking a more active role in helping public entities manage loss – having a positive impact on policy terms, community relations and general public safety. You can read more about the coverage market for law enforcement **here**.

Casualty Market Trends and Pricing (continued)

Sexual Abuse and Molestation Coverages

From a coverage perspective, sexual abuse/misconduct (SAM) liability coverage is increasingly difficult to obtain. Standalone policies are increasingly expensive and restrictive in terms while requiring background checks on teachers, administrators and general staff (which are also often state mandated) and ongoing training for those employed is a must, as is enhancing social awareness around potential risks.

Crisis communication coverage – purchased in addition to a standalone SAM policy – can be beneficial in these scenarios. Schools in particular have come to a better understanding of how to address allegations of sexual abuse, putting the staff member on leave throughout the investigation and then being as transparent as possible with the results, but providing access to specialists who know how to handle public inquiries and media outlets is often seen as the best protection.

Cyber Liability

The cyber liability market appears to be playing a waiting game, with some skepticism as to what the next three to six months will bring as carriers evaluate the impact of new ransomware and rising extortion claims on rates and terms. While premiums have not necessarily risen yet, claim frequency and the severity of attacks are increasing, and we have seen the launch of new types of ransomware groups. In short, the bad actors are back at it.

Current trends across the market include aggregate limits of $5M or less, while risks without proper controls (such as multi-factor authentication/MFA, EDR and many others), as well as those with losses, are frequently declined. Public entity pools and school pools continue to have limited access to carriers – constrained to niche carriers with a burdening underwriting process and complex coverage triggers. However, utilizing surplus lines carriers that can simplify the underwriting process has opened up new opportunities with cyber coverage for public entity pools as well.

As previously mentioned, many carriers will not drop down over sub-limits on underlying carriers, which poses a problem for key coverage like e-crime and ransomware. While at the same time, carrier scans are being used more frequently in underwriting, but there are often weak spots that can be outdated or inaccurate. Some carriers will share their scans on request.

There is some good news, clients that have spent the last year improving cyber hygiene and cyber security are usually rewarded with flat renewal rates and increased sublimits for key coverages such as ransomware/extortion, systems failure and dependent business interruption.

You can read more about how to access cyber liability insurance **here**.

Additional Liability Coverages

For public officials liability, educators legal liability and employment practices liability, stand alone coverage/capacity is available through a small niche of carriers that can underwrite and provide coverage. Rates have remained fairly stable; however, retentions and pricing levels are significantly higher than in the private sector. Crime coverage with a faithful performance of duty extension is becoming more difficult to secure as fewer carriers are willing to provide it and regulatory oversight is growing (e.g., the new law in Florida requiring public officials to disclose their income).

Mitigating Liability Loss Occurrence and Adverse Claim Outcomes

As claims activity increased, carriers saw a higher frequency in payouts during the last quarter to six months of 2023. In general, rates and terms have remained constant, but underwriters continue to waver when asked if 2024 will see more premium competition or hardening/increasing of rates.

To prepare for upticks while seeking flat or improved rates and terms where warranted, public entity risk managers and pool administrators can differentiate themselves by using strategies to control adverse loss outcomes.

Employment of data scientists – allowing for predicative analytics and improved quantitative integrity as well as focused areas of loss control deployment and exposure tracking.

Prioritization of risk – training and loss control implementation for abuse claims beyond the mandatory reporting, Title IX metrics and regulatory compliance standards.

Elevated claims communication and litigation management – facilitating best practices among defense panel counsel, specialist identification, law and motion tracking as well as insurer/reinsurer reporting protocols reaffirmed.

Deployment of advanced technology – implementing law enforcement incident monitoring and body camera algorithms to identify officers with a predisposition towards violating conduct standards, as well as collision avoidance systems and sexual abuse reporting systems to collect and analyze trends.

Legislative efforts to mitigate loss variability in non-tort protected venues – sharing peer group loss content to establish a quantitative impact presentation to government officials and lobbyists.

Aberration Verdicts

Verdicts of $10 million or more continue to plague the industry. Cities, municipalities, law enforcement and local first responders are facing cases where the anticipated verdict calls for a settlement that far exceeds what they can pay. The Defense Research Institute (DRI) is one organization working to determine the best way to help defend governmental agencies and public entities against claims such as these.

DRI's purpose is to determine how public entities can better defend themselves against high exposure claims, whether that means getting ahead of potential exposures through risk management, developing best practices for coverage design, sharing resources or looking at what jurisdictions may be more suited to handle certain cases. They also focus on educating public entity pools as to who the best panel counsel may be and recommending a specialist rather than relying on general counsel. These specialists may include expert witnesses such as physicians, mental health providers, forensic investigators, etc.

London

Public entity business continues to be a core/long-term portion of London, European and International markets. Over the past three years, Amwins Global Risks has doubled the amount of public entity business it writes, directly in line with the growth seen by top trading markets in the region.

Rate increases for 2024 are likely to range from 5% to 10% for accounts with a favorable loss history. However, Florida accounts could see a marginally higher increase, as could accounts that are loss effected. Valuations remain a top concern and markets will be looking for clients that are able to demonstrate a consistent methodology as to how they value their assets. The same can be said for CAT exposure as we wait to see the potential impacts of RMS 23.

At the same time, there is limited new capacity entering the London market – only two new entrants in the past several months. We expect that existing syndicates will be looking to expand their lines in 2024 and enter the occupancy while rates and deductible levels are favorable.

Bermuda

With an increasing number of markets willing to deploy limits lower in the tower, Bermuda has become a source of much needed capacity for this class, especially in cases where gaps in the tower need to be filled. Rate increases are stabilizing, but each case will be taken on its own merits.

Underwriters continue to be hawkish about exposures such as sexual abuse/misconduct and law enforcement liability. And, while single aggregate limits are preferred, markets in Bermuda will offer multiple aggregates depending on the circumstances and quality of account and submission data.

Amwins Helps You Win

One size does not fit all when it comes to public entity coverage. It must span municipalities, transit districts, educational institutions and other specialty agencies at the county, city and state levels. At Amwins, our approach to placing coverage taps into the unique needs of your clients' businesses — enabling us to curate and customize solutions that help your clients overcome today's risks, while preparing for the future.

At the same time, our in-house actuarial and CAT modeling team utilizes cutting-edge software to deliver catastrophe risk data analysis and the most accurate pricing possible. We also offer access to legal counsel and will work with you to help your clients design a proactive claims management plan to support them on difficult and complex claims.

Contact your local Amwins broker or **click here to learn more** about our exclusive public entity products and programs.

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