Liability Landscape Update for California Cities

League of California Cities Annual Conference
September 24, 2026

Meet Our Panelists

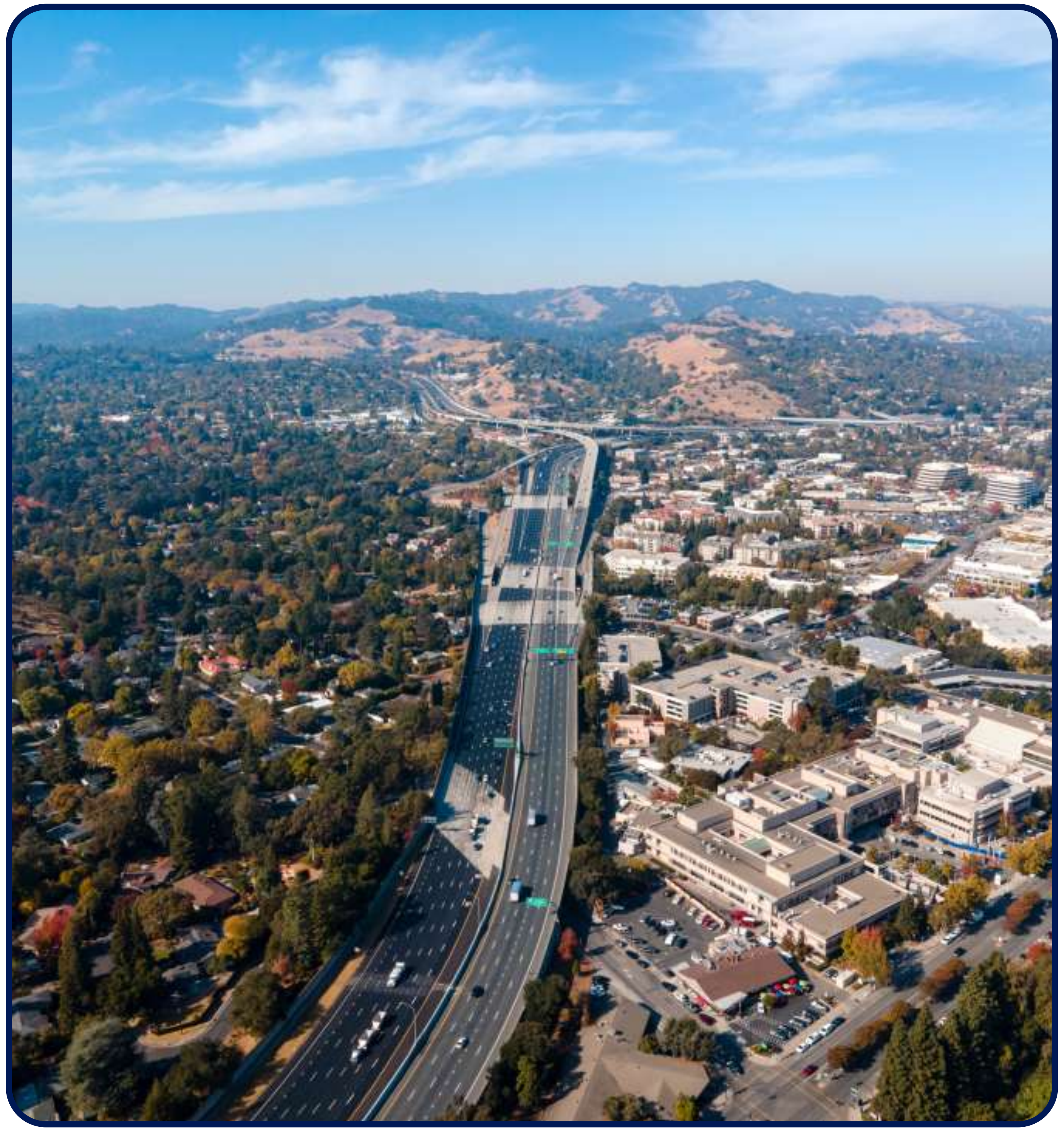
Thaddeus McCormack
City Manager
City of Lakewood

Rachel Boden
Partner
Behar | Gibbs | Savage | Paulson, LLP

Alex Smith
CEO
California Joint Powers Insurance Authority

Margaret Finlay
Councilmember
City of Duarte

Liability Landscape Update—Overview



- Protecting Public Funds Data Project
- Tort Cap Analysis
- Social Inflation
- Academic Research on Local Govt Liability
- Litigation Financing
- SB 623 Uber
- Culture of Risk Management & Safety
- SB 577 Update
- Potential Policy Solutions
- How You Can Support Local Govt Liability Reform

Protecting Public Funds—Data Project

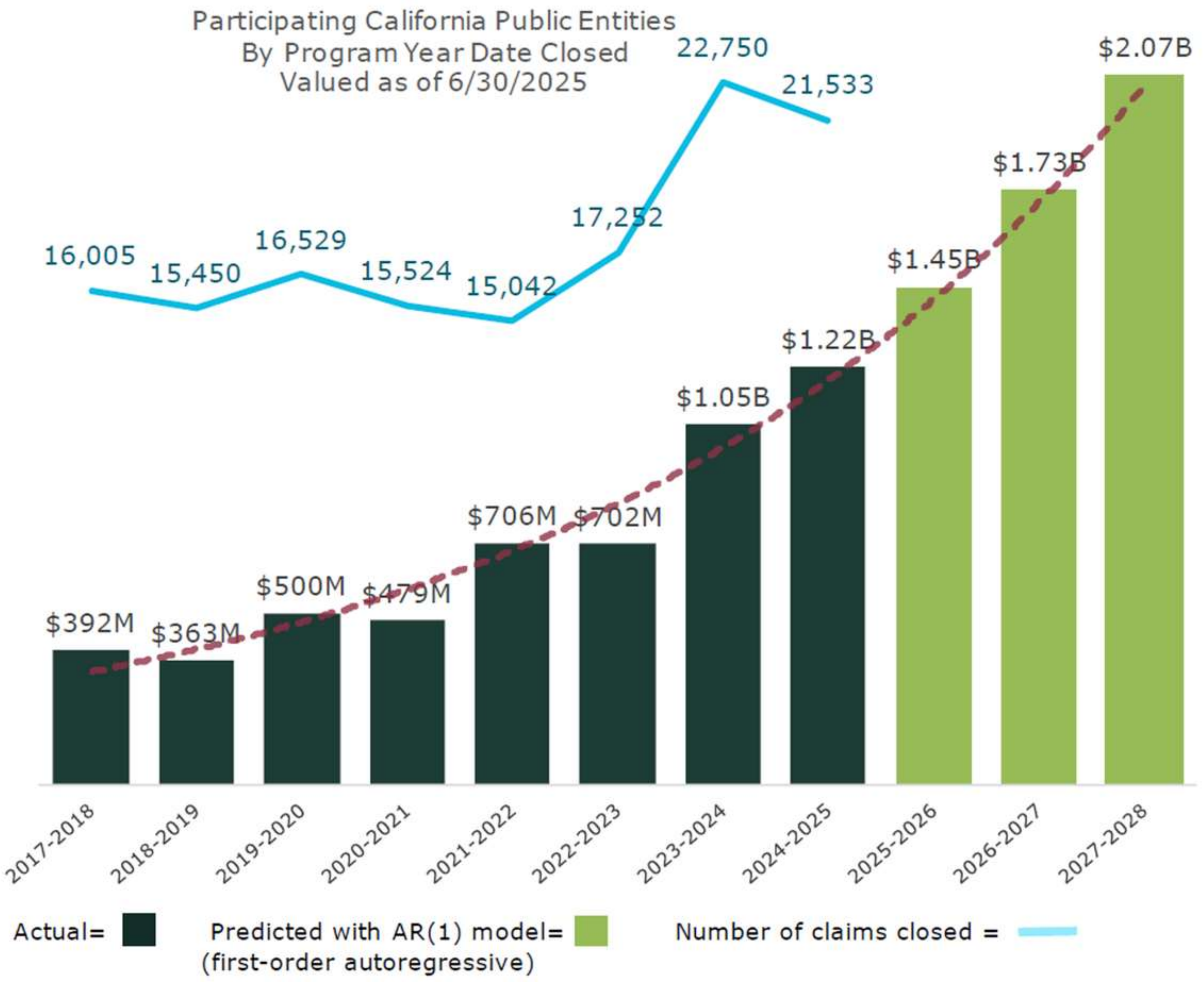
CAJPA
California Association of Joint Powers Authorities

- Large scale analysis of California public entity liability trends
- Liability claims data was collected from over 1,900 California counties, cities, schools, and special districts
- Large, self-insured jurisdictions did not participate

Liability Data from 1,979 Local Agencies

Type of organization	Organizations: N that exist in California	N (%) 2025 1985-1986 – 2024-2025	N (%) 2025 2015-2016 – 2024-2025	N (%) 2024
County	58	50 (86%)	50 (86%)	49 (84%)
Municipality	483	418 (86%)	416 (86%)	311 (64%)
School district*	936	601 (64%)	350 (37%)	300 (32%)
Other education**		233	134	137
Other agencies***		688	581	489
Total		1,979	1,531	1,286

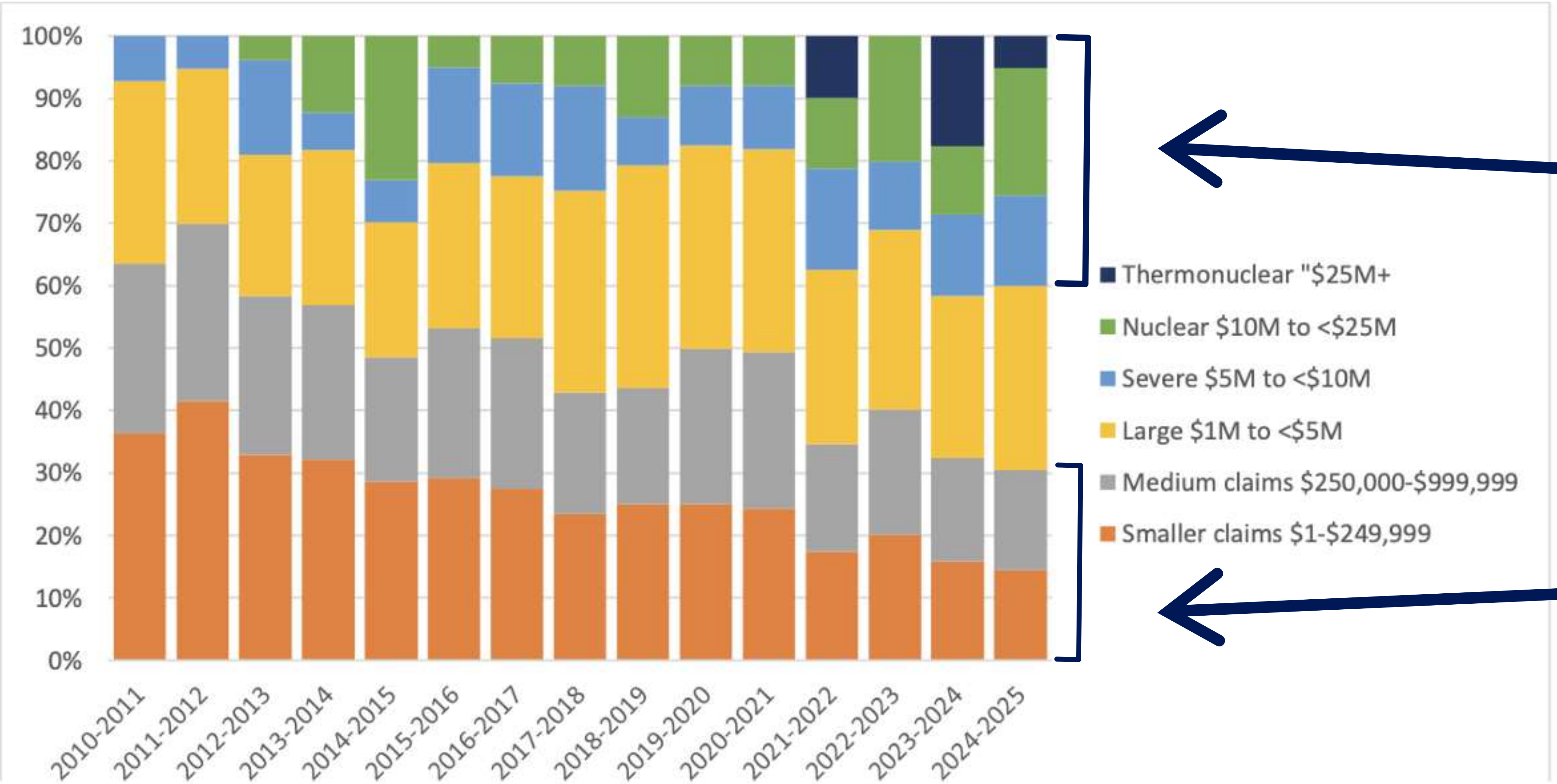
Public Entity Liability Cost Trend is Alarming



Source: California Association of Joint Powers Authorities Protecting Public Funds Data Project (2026)

Rising Number of Claims Over $5M

Dollar Share of Occurrences Closed by Size
(Excluding No Dollar Claims) and Year of Closure, Excluding City of Los Angeles

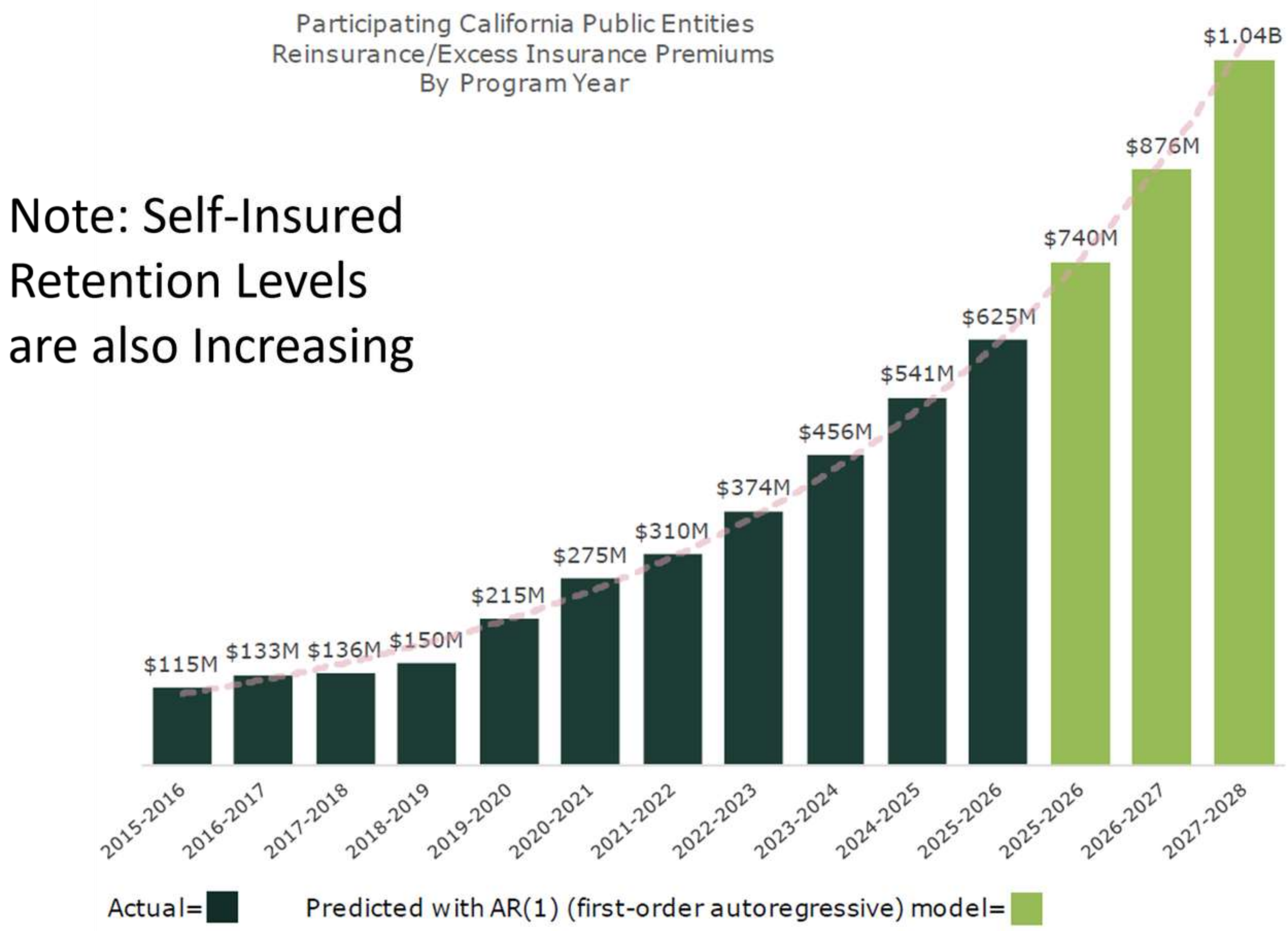


Thermonuclear, Nuclear, and Severe verdicts are increasing

Medium and small claims are decreasing

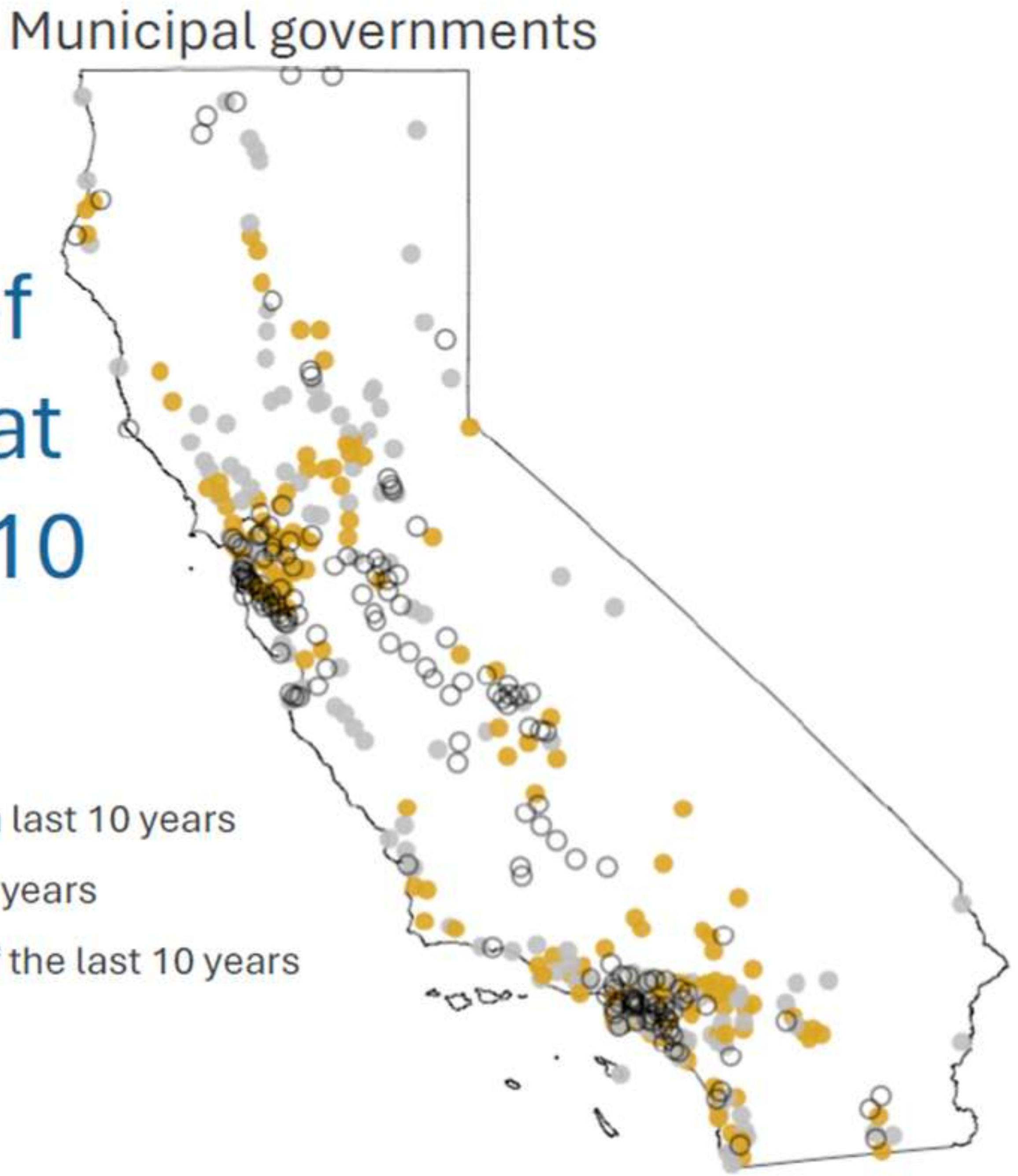
Source: The Beacon Economics The Cost of Claims: What it Means for California's Communities presentation (September 2026)

Insurance Premiums are Increasing Sharply



This is a Statewide Phenomenon

Many California Communities have seen a closed claim of more than $1 million at least once in the last 10 years.



- At least one closed claim of more than $1 million in last 10 years
- No closed claims of more than $1 million in last 10 years
- Not in dataset, or no closed claims for 7 or fewer of the last 10 years

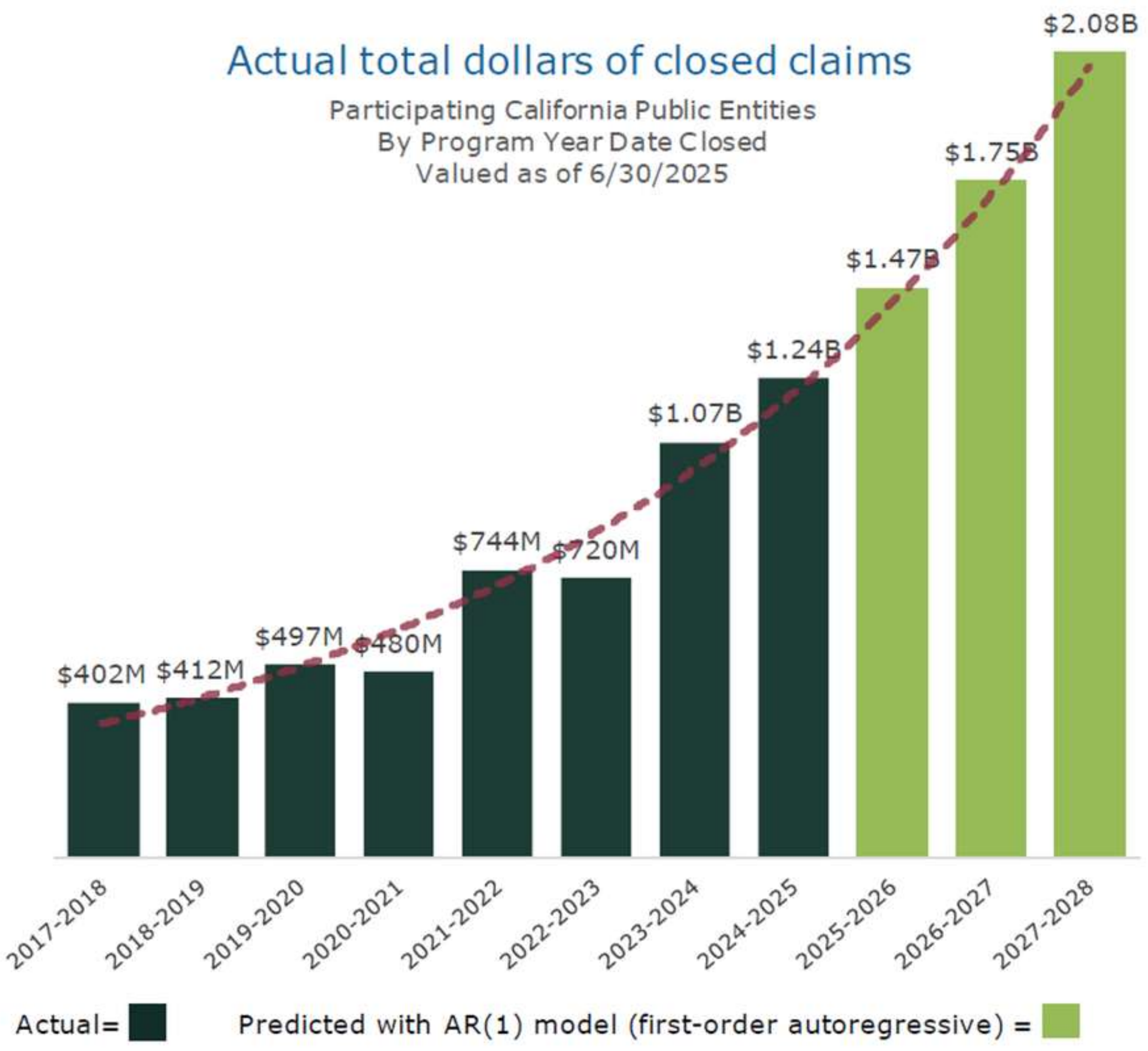
Source: California Association of Joint Powers Authorities Protecting Public Funds Data Project (2026)

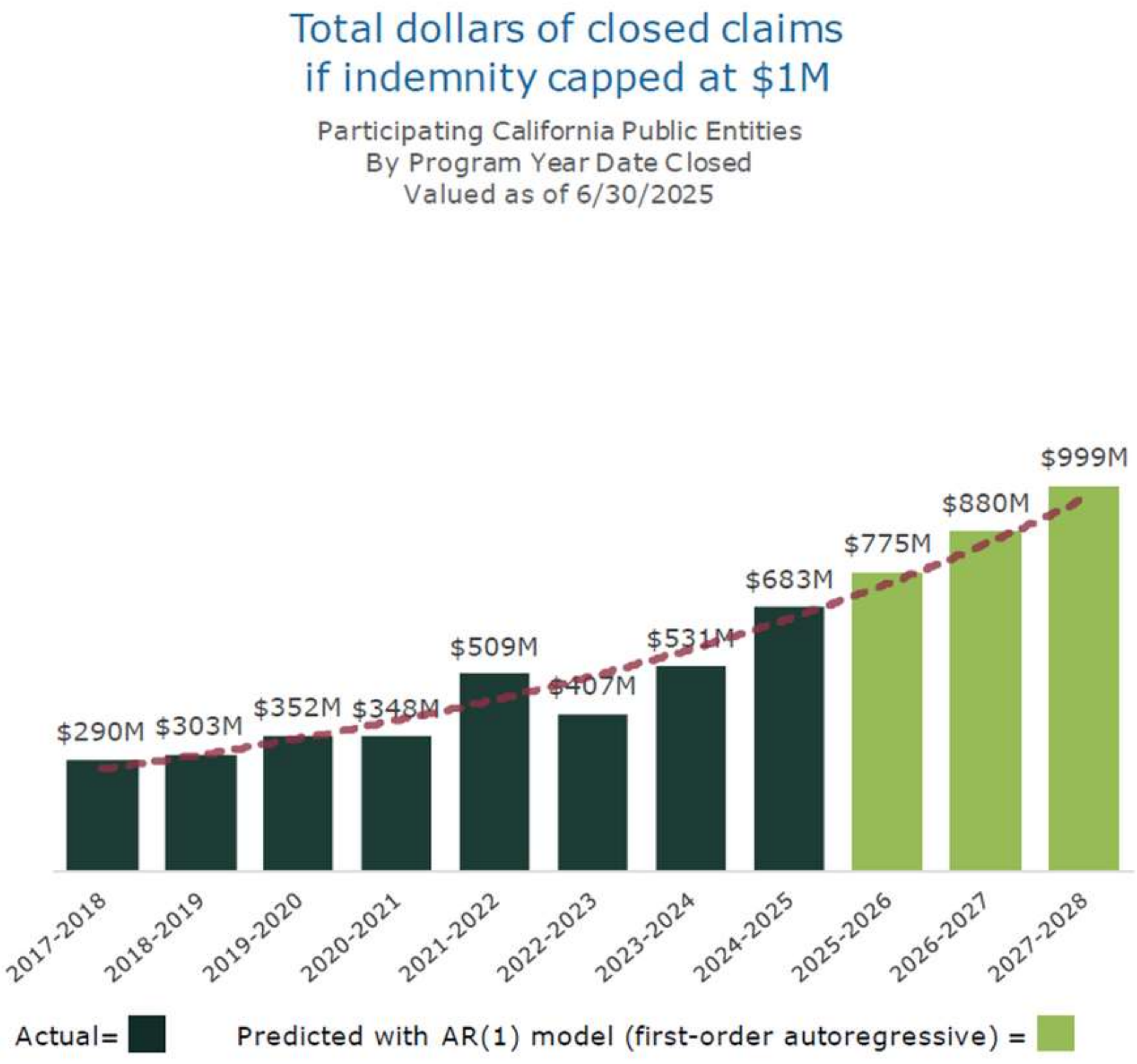
Public Entity Tort Caps in Other States

State	Public Entity Cap on Damages
Colorado	$424,000 per person/ $1,195,000 per occurrence
Oregon	$879,200 per person/ $1,758,300 per occurrence
Maine	$400,000 per occurrence
Wisconsin	$250,000 per person
Maryland	$400,000 (reduced from $890,000 in 2025)
Massachusetts	$100,000 per person
Minnesota	$500,000 per person/ $1,500,000 per occurrence
California	None

Source: TLR Foundation, Damage Caps Across the US (2024); MWL 50-state public-entity immunity matrix; Epstein Becker Green, July 2025

Tort Cap Impact Analysis





Source: California Association of Joint Powers Authorities Protecting Public Funds Data Project (2026)

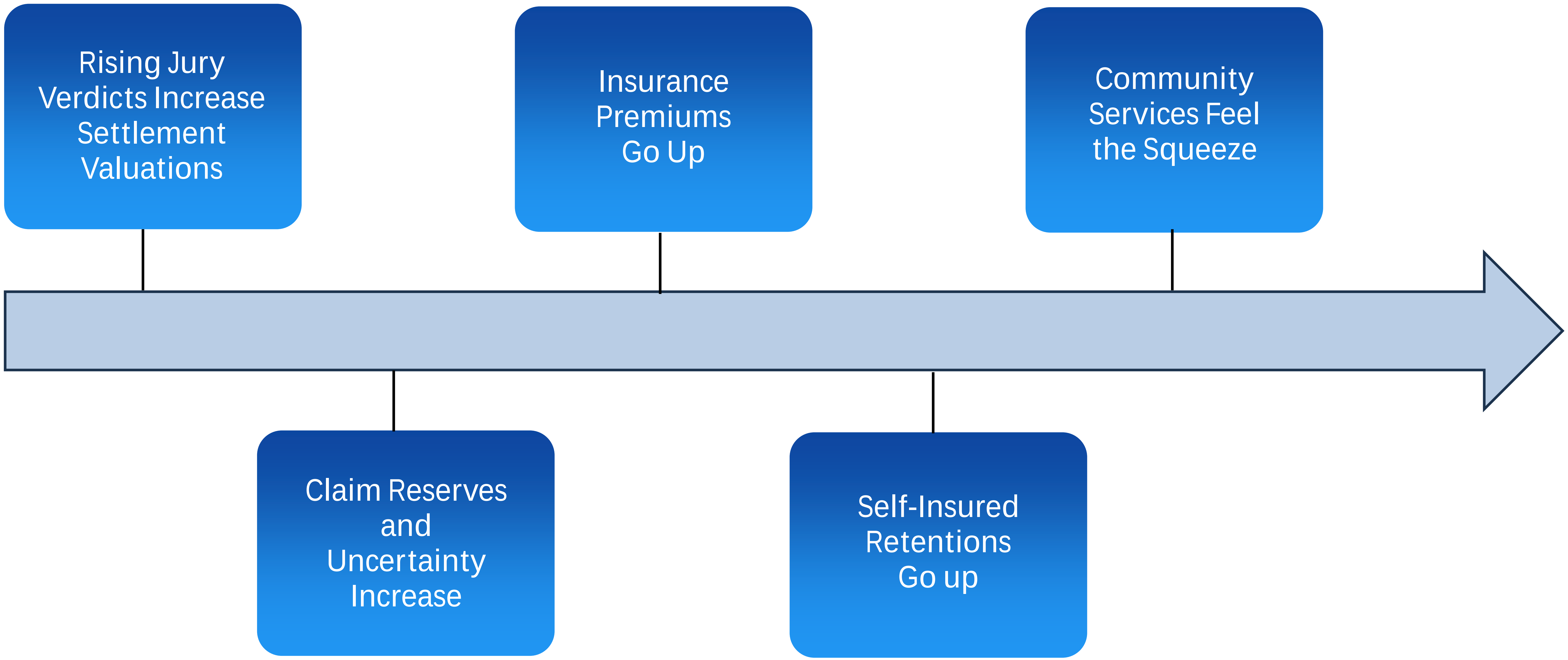
Major Cost Drivers—aka Social Inflation

Social inflation is the rising severity of liability costs beyond what can be explained by economic factors.

It refers to changes in public opinion and a broadening of how society (and juries) assign responsibility and damages.

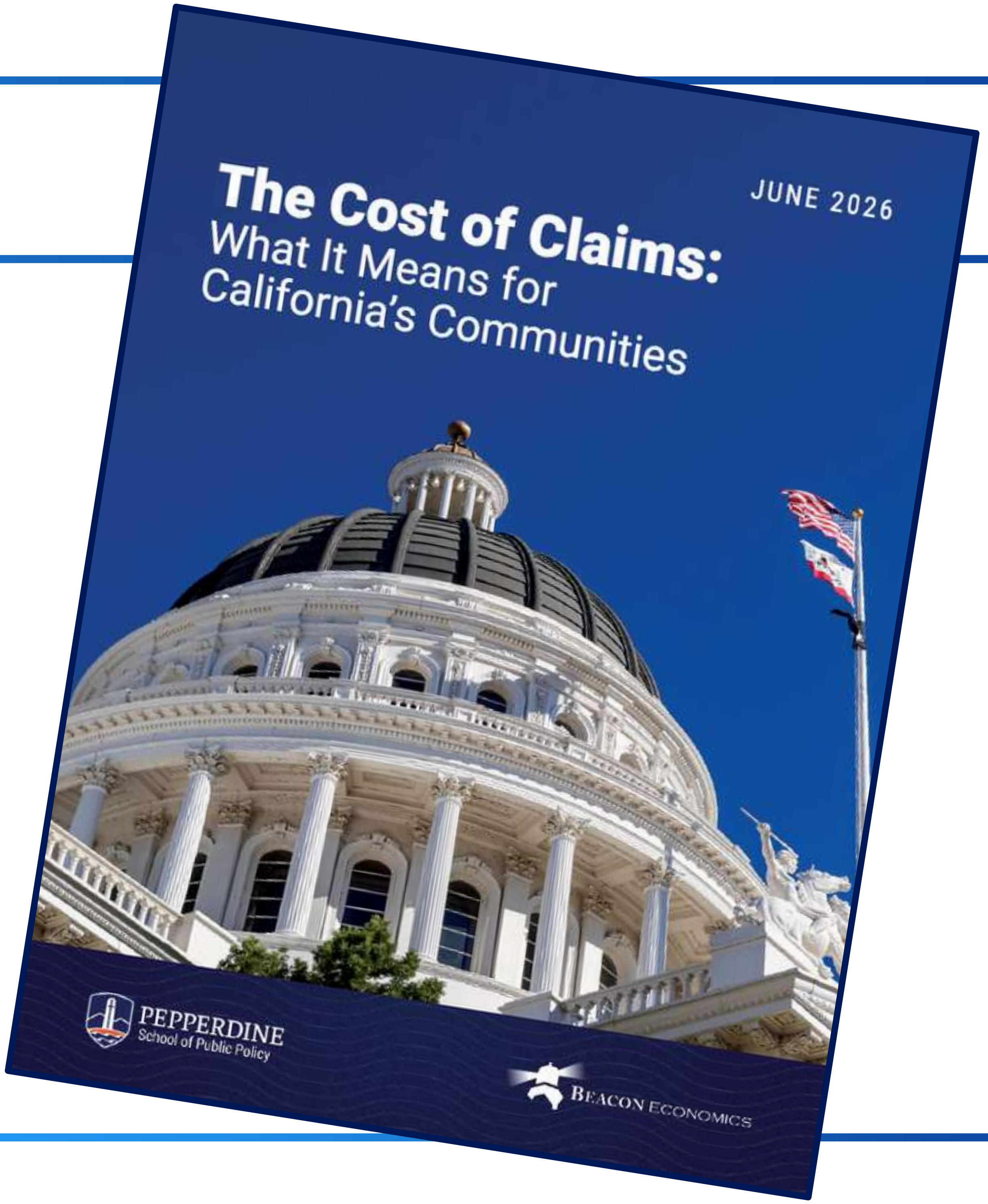
Source: Swiss RE Institute Social Inflation Index (2024)

How This Affects Your Agency



Academic Research

KEY **FINDINGS**



1. The fiscal challenge is not just more claims, it's more high-severity claims.

2. Sexual Abuse and Molestation (SAM) claims have grown noticeably.

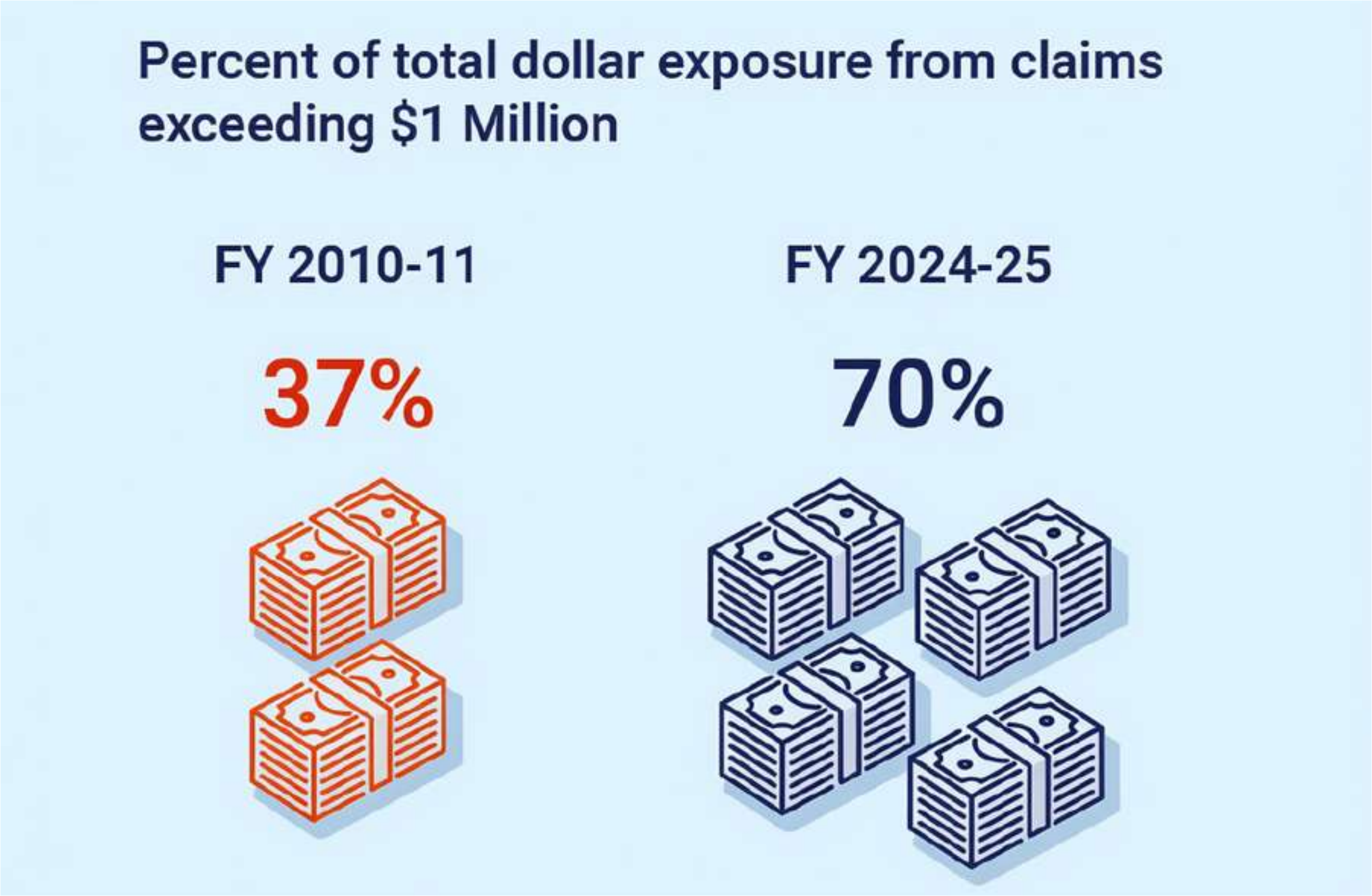
3. There has been a clear increase in high-cost claims across the board, from large to "nuclear" ($10 million to $25 million) and beyond, reflecting a broader shift toward more severe liability exposures.

From 37% to nearly 70%—large claims now account for the majority of financial exposure.

Academic Research

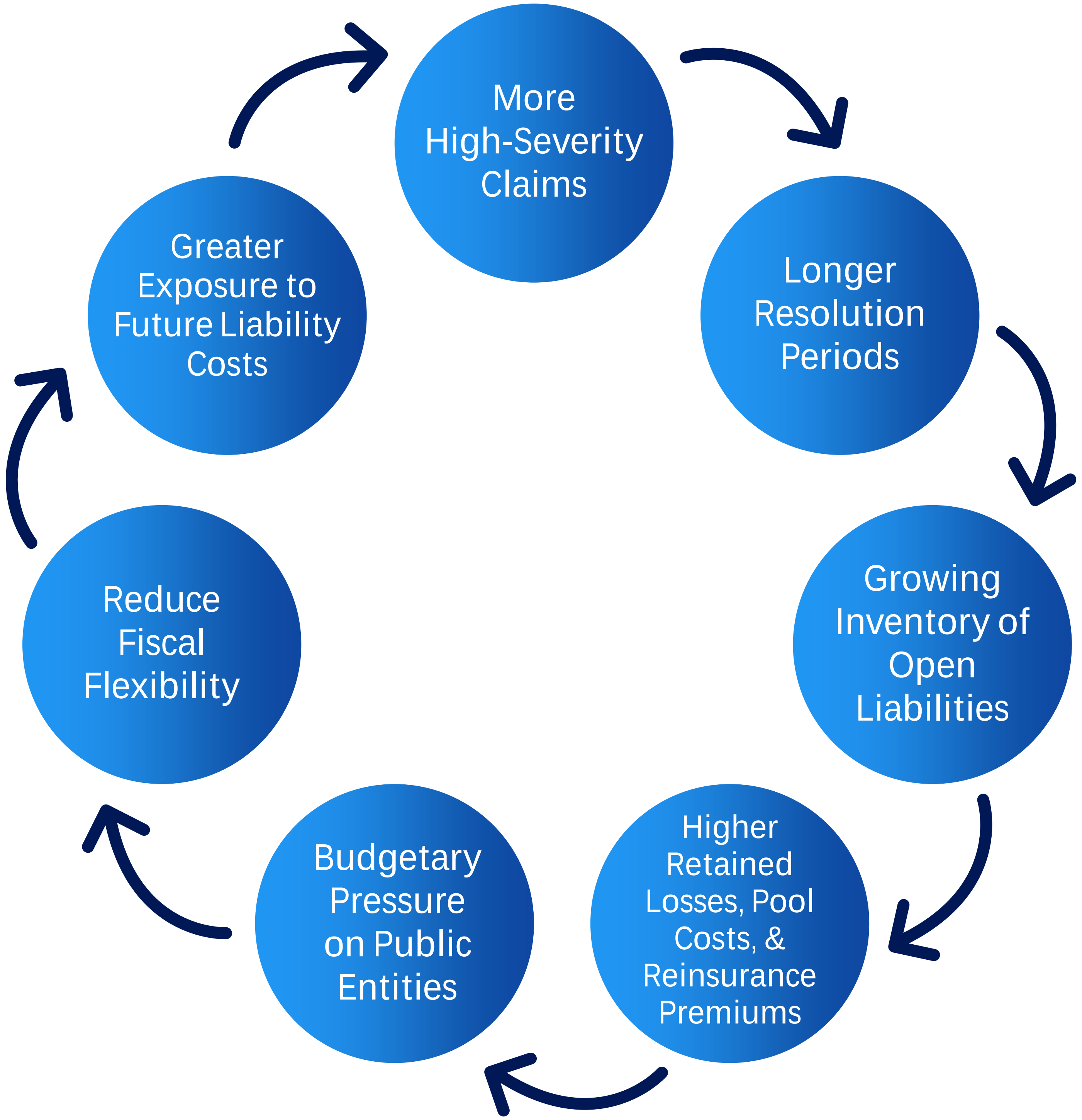
4 Financial exposure is compounding due to the slow resolution of large claims.

5 Liability exposure is translating into measurable fiscal impacts at the local level.



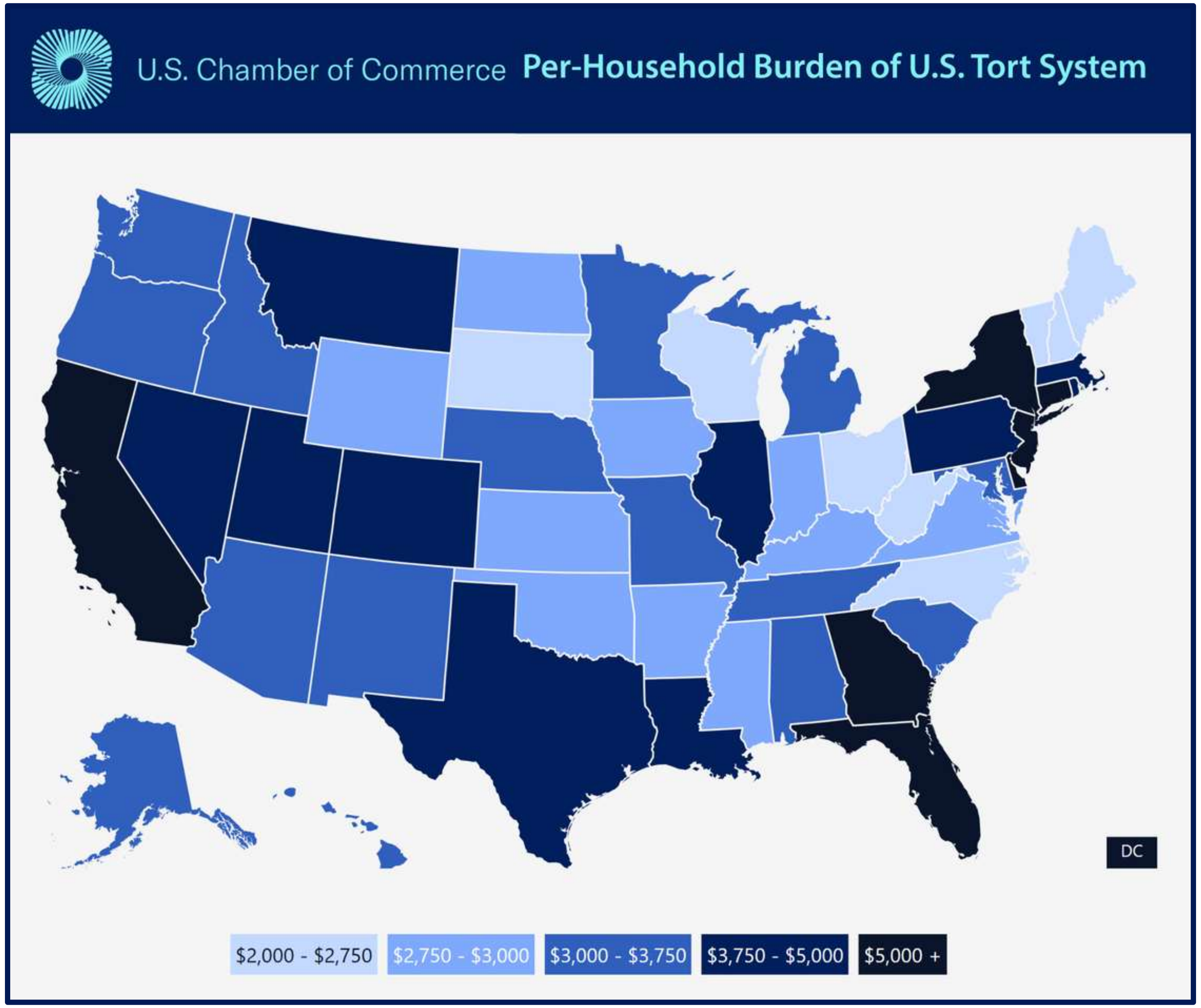
Source: The Cost of Claims: What it Means for California's Communities, Pepperdine School of Public Policy, Beacon Economics (2026)

The Public Liability Cost Cycle



Source: **The Cost of Claims: What it Means for California's Communities, Pepperdine School of Public Policy, Beacon Economics** (2026)

The Broader Costs



- Nationwide $529B in tort costs (2022)
  - California was $72B
- Average $5.4k cost per household in California
- 8.8% annual growth in California between 2016 and 2022
  - Faster than inflation
- Nationwide it is projected > $900B by 2030

Source: https://www.uschamber.com/lawsuits/hidden-costs-lawsuits-grow

Litigation Financing

What is TPLF?

Third party litigation funding (TPLF) allows hedge funds and other financiers to invest in lawsuits in exchange for a percentage of any settlement or judgement.

U.S. Chamber of Commerce
Institute for Legal Reform

False

TPLF is already regulated

TPLF is just like legal aid

Keeping TPLF secret is good for consumers.

True

There are no rules governing TPLF investments in litigation.

TPLF investments are secret. Most of the time, judges, plaintiffs, and **defendants don't know when** lawyers make deals with funders

Litigation funders pick cases to maximize their return on investment, not to help people seek justice.

Funders are usually not interested in ordinary, low-value claims because **the profits aren't big enough.**

Because TPLF agreements are done **in secret, it's easy for funders to put** their interests above the plaintiffs.

In some class actions, funders are paid before plaintiffs and even have a deal to receive more money if fewer plaintiffs come forward.

Source: https://www.uschamber.com/lawsuits/hidden-costs-lawsuits-grow

Recent Legislation—Senate Bill 623

How it Began:

Uber's proposed measure, the "Protecting Automobile Accident Victims from Attorney Self-Dealing Act"

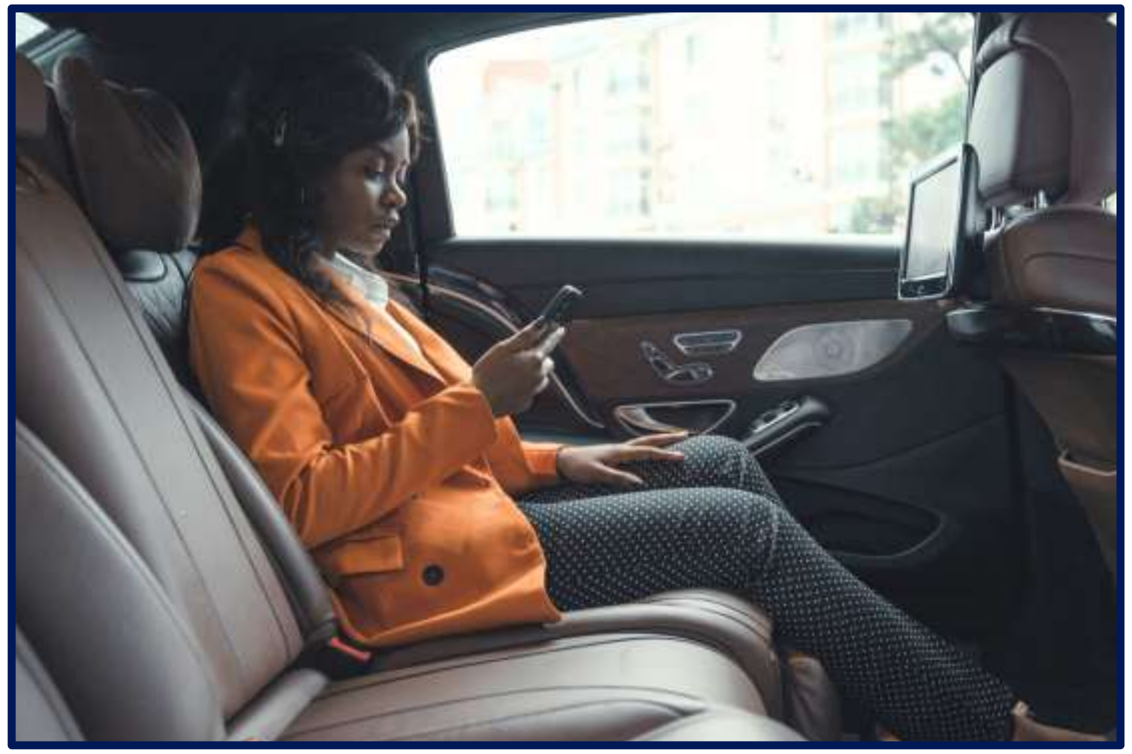
- Attorney Fee Caps
- Capping the Value and Reimbursement for Alleged Medical Costs
- Referral Restrictions

The Plaintiffs' Bar responded by proposing three ballot initiatives that would:

1. Expand Uber's liability for passenger injuries;
2. Increase its liability for sexual misconduct against riders or drivers; and
3. Ban new state laws that interfere with people's ability to retain lawyers.

Senate Bill 623—Continued

Resulted In: Senate Bill 623, which is limited to ride share cases



- Plaintiffs generally can not recover more than 70% of the Fair Health Value for medical services.

- If a lien-based care provider sells their lien to a third-party, the maximum amount that the third-party can recover is the consideration paid by that third-party to the lien-based provider for the assignment.

- Makes it unlawful for an attorney representing a person under a contingency fee agreement to refer the client to a healthcare provider in which the attorney (or family member) has a direct ownership interest.

- Makes it unlawful for an attorney to receive a kickback or a fee-split for referring a client to a lien-based provider, or provide bonuses or incentives for referring a client to a lien-based provider.

- Prohibits attorneys from charging an additional contingency fee, administrative fee, management fee, or similar fee based on reducing or resolving a client's medical lien.

Targeted Reforms To Help Cities and All Public Agencies

The Joint and Several Liability Problem

Prop 51 establishes that for economic damages, any joint tortfeasor can be held responsible to pay the entire economic award to the plaintiff.

Problem: The Governmental Entity is usually the "deep pocket."

Solution: An exception for public entities.

The Design Immunity Problem

To obtain Design Immunity, the governmental entity must obtain discretionary approval of the plan or design prior to construction.

Problem: Record Keeping

Solution: Presumptive Design Immunity

Creating a Culture of Risk Management & Safety

Inspect Consistently

Prioritize routine sidewalk inspections to identify hazards early and support timely, defensible responses.

Coordinate Across Boundaries

Establish a plan for streets, sidewalks, and intersections shared with neighboring agencies. Clarify responsibility, communication, and response protocols before an incident occurs.

Prepare for PRAs and AI

Recognize that AI-assisted work may create or affect records subject to Public Records Act requests. Establish clear expectations for documentation, retention, and disclosure.

Design Immunity

Address the Historic Records Gap

- Support a rebuttable presumption for qualifying historic infrastructure when original approval records are unavailable.

Learn from Recent Case Law

- Recent decisions reinforce that approved plans, documented discretionary approval, and evidence supporting the design’s reasonableness remain central to the defense.

Strengthen Records

- Maintain design plans, approval records, engineering analyses, applicable standards, and documentation of later modifications. Pair those records with processes for evaluating changed conditions, complaints, collision history, and potential warning needs.

Streets and Sidewalks—Small Defects, Significant Consequences

Safety

Residents depend on safe, accessible streets and sidewalks

Fiscal Pressure

Maintenance competes with other essential community priorities

Liability Exposure

Unaddressed defects can result in injuries, claims, and higher costs

Leadership

Consistent inspection, documentation, prioritization, and investment matter

Deferred maintenance does not eliminate a cost.
It shifts that cost into the future, often with greater consequences.

SB 577—A Small Step Toward Proportionate Liability

- Provides a variety of liability reforms pertaining to childhood sexual assault claims
- Also amends Civil Code Section 1431.2(2)
- **Limits liability of public entities for economic damages to its proportionate share of fault—several only not joint—when the agency is found to be 15% at fault or less.**
- Applies to any civil action filed on or after January 1, 2027, alleging personal injury, property damage, or wrongful death against a public entity

Policy Solutions Suggested by Pepperdine & Beacon Economics

- Modified comparative negligence standards
- Dangerous condition of public property reforms
- Joint and several liability reforms, including fault-threshold systems and proportionate liability approaches
- Collateral source rule reforms
- Expanded and more flexible periodic payment mechanisms for large awards
- Structured contingency fee limitations modeled on MICRA
- Structured damage caps on liability exposure

Source: The Cost of Claims: What it Means for California's Communities, Pepperdine School of Public Policy, Beacon Economics (2026)

What YOU Can Do

League of California Cities

The League of California Cities (Cal Cities) supports legislative, and advocacy efforts focused on local control, community funding, and municipal stability.

PRISM

PRISM (Public Risk Innovation, Solutions, and Management) focuses its legislative advocacy and support on issues affecting public entities, pooled risks, employee relations, and workplace safety in California.

California Association of Joint Powers Authorities

The California Association of Joint Powers Authorities (CAJPA) supports legislation that protects public agencies from excessive liability, controls healthcare and workers' compensation costs, and preserves public agency funds for community services.

Coalition to Protect Community Services

The Coalition is a statewide alliance of local government organizations working to address the growing fiscal impact of escalating liability costs. Led by the California JPIA, the coalition advocates for balanced liability reforms.

Q&A