

INTERLOCAL AGREEMENT
FOR
THE
SCHOOLS INSURANCE ASSOCIATION
OF WASHINGTON

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CREATING THE
SCHOOLS INSURANCE ASSOCIATION OF WASHINGTON

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INTERLOCAL AGREEMENT CREATING THE
SCHOOLS INSURANCE ASSOCIATION OF WASHINGTON

1. *Introduction.*

THIS AGREEMENT is made and entered into in the State of Washington pursuant to the provisions of Chapter 39.34 Revised Code of Washington and Chapter 48.62 Revised Code of Washington by and among the Washington school districts listed in Exhibit A attached hereto (the "Members").

2. *Recitals.*

2.1 Chapter 48.62 Revised Code of Washington provides that two or more "local governmental entities" may, pursuant to Chapter 39.34 Revised Code of Washington, jointly purchase insurance (these activities are hereafter collectively referred to as a "Joint Insurance Purchasing Pool").

2.2 Revised Code of Washington Section 48.62.021 defines "local government entities" to include school districts organized and existing under Title 28A Revised Code of Washington.

2.3 It is to the mutual benefit of the Members and in the best public interest of the Members to join together to establish this Joint Insurance Purchasing Pool to accomplish the purpose set forth herein.

2.4 The Members have determined it is in their best interest to participate in such a program.

3. *Agreement.*

In consideration of the foregoing and the mutual benefits to be derived herefrom, the Members agree as follows:

3.1 *Purpose of Agreement.* This Agreement is entered into by the Members pursuant to Chapter 39.34 Revised Code of Washington and Chapter 48.62 Revised Code of Washington for the purpose of authorizing the creation of the Schools Insurance Association of Washington (the "Group"), which shall be organized as a non-profit corporation under Chapter 24.03 Revised Code of Washington, to provide a Joint Insurance Purchasing Pool for the benefit of school districts in the State of Washington organized and existing pursuant to Title 28A Revised Code of Washington. The Group shall, in exchange for the payment of annual assessments and retroactive assessment by the Members, administer a Joint Insurance Purchasing Pool wherein the Members will pool their losses and claims and jointly purchase insurance and administrative and other services through the Group including claims adjusting, risk management consulting, loss prevention and related services at levels established in each annual budget. It is also the purpose of this Agreement to provide, to the extent permitted by law, for the inclusion at a subsequent date of such additional school districts organized and existing under Title 28A Revised Code of Washington as may desire to participate in the Joint Insurance Purchasing Pool. It is also the purpose of this Agreement to provide, to the extent permitted by law, that the Group may, at the discretion of its Board of Directors, contract with other local governmental entities in the State of Washington to provide, at a reasonable charge, administrative and other services, including claims adjusting, risk management consulting, loss prevention and training.

3.2 *Parties to Agreement.* Each party to this Agreement certifies that it intends to contract with all parties who are signatories of this Agreement on its effective date and with such other parties as may later be added to and become signatories to this Agreement pursuant to Section 3.12. Each party to this Agreement also certifies that the withdrawal or cancellation of any party to this Agreement, pursuant to Sections 3.13 or 3.14 shall not affect this Agreement or such party's intent to contract pursuant to the terms of this Agreement with the then remaining parties to this Agreement.

3.3 *Term of Agreement.* This Agreement shall become effective September 1, 1995, and shall remain in force until terminated pursuant to the provisions of Section 3.17.

3.4 *Creation of Group.*

3.4.1 Pursuant to Chapter 48.62 Revised Code of Washington and Chapter 39.34 Revised Code of Washington, the Members authorize the incorporation of the Group as a non-profit corporation pursuant to Chapter 24.03 Revised Code of Washington and articles of incorporation substantially in the form attached as Exhibit B. The Initial Board of Directors shall serve until the first annual election of Board of Directors members, which shall be held no later than 180 days after the effective date of this Agreement. Each Member shall become a Member of the corporation. The regulation and management of the affairs of the Group shall be governed by this Agreement, and corporate By-Laws substantially in the form attached as Exhibit C, which shall be adopted by the initial Board of Directors immediately upon the incorporation of the Group. The Group's articles of incorporation and By-Laws may be amended from time to time as deemed necessary by the Members and Board of Directors pursuant to the procedures set forth in Chapter 24.03 Revised Code of Washington and Article 17 of the By-Laws.

3.4.2 Notwithstanding the foregoing, the Board of Directors shall have no power or authority to incur any obligations on the part of, or to be chargeable to, Members in excess of the requirement of each Member to compensate the Group or the insurance carrier with whom the Group has affected a transaction as authorized by this Agreement, for the individual Member's share or obligation for the purchase of insurance contemplated and authorized by this Agreement. The debts, obligations and liabilities of any Member shall not become the debts, obligations and liabilities of other Members except as provided by Section 3.11 of this Agreement.

3.4.3 The insurance afforded to each Member pursuant to this Agreement is limited to the insurance provided by any insurer of the Group and the coverages defined in the policies of insurance issued by any insurer of the Group. No coverage, benefit or insurance in excess or different from that afforded by any insurer of the Group is offered or afforded to any Member by execution of this Agreement.

3.5 *Powers of the Group.* The Members hereby delegate to the Group the powers which are common to the Members and which are reasonably necessary and proper to carry out the purposes and terms of this Agreement. Such powers shall include, but not be limited to, the power to:

3.5.1 Establish, and require compliance with, all terms of the Joint Insurance Purchasing Pool to be provided by the Group including the types and limits of the insurance coverage, the methodology to be used to allocate the Group's costs among the Members, and the amount of retroactive assessments to be paid by each Member;

3.5.2 Make and enter into contracts;

3.5.3 Incur debts, liabilities or obligations;

3.5.4 Acquire, receive, hold or dispose of property, funds, services, and other forms of assistance from persons, firms, corporations and governmental entities;

3.5.5 Sue and be sued, complain and defend, in its corporate name;

3.5.6 Hire employees and agents; and

3.5.7 Employ a third party administrator to act in accordance with Section 3.8.6.

The powers delegated to the Group shall be exercised pursuant to the terms of this Agreement and in the manner provided by law.

3.6 *Responsibilities of the Group.* The Group shall have the following responsibilities:

3.6.1 Within thirty days after the effective date of this Agreement, the Board of Directors shall adopt a budget. Pursuant to Section 3.8.11, a budget shall be adopted by the Board of Directors prior to the beginning of each fiscal year thereafter. Fiscal years for the Group shall be from September 1 through August 31 of the next calendar year. The budget shall specify the types and limits of the insurance coverage to be provided through the Group, the estimated annual assessment to be paid by each Member, and the methodology to be used to allocate the Group's costs, including deductible costs, administrative costs, and loss costs, to each Member on a retroactive basis and to establish the amount, if any, of each Member's retroactive assessment.

3.6.2 The Group will assist each Member's service representative, upon request, with the implementation of risk management programs.

3.6.3 The Group may provide loss prevention, safety, and consulting services to Members.

3.6.4 The Group will provide claims adjusting and subrogation services for claims covered by the Group's Joint Insurance Purchasing Pool.

3.6.5 The Group will provide loss analysis for the Members for the purpose of identifying high exposure operations and evaluating proper levels of self-retention and deductibles.

3.6.6 The Group may conduct risk management audits to assess each Member's participation in the Joint Insurance Purchasing Pool.

3.7 *Responsibilities of Members.* Members shall have the following responsibilities:

3.7.1 Pursuant to Section 2.2 of the By-Laws, the governing body of each Member shall designate at renewal a representative who shall be authorized to exercise the Member's voting rights with respect to the Group and to act on behalf of the Member with respect to all matters pertaining to the Group.

3.7.2 Each Member shall maintain its own set of records, as a loss log, on all categories of loss to insure accuracy of the Group's loss reporting system and shall provide to the Group a written report to all potential claims or losses within 14 days after they become known to the Member.

3.7.3 Each Member shall pay to the Group when due all assessments and retroactive assessments established by the Group pursuant to the terms of this Agreement. After the withdrawal, cancellation, or termination of a Member, such Member shall continue to pay to the Group when due its share of any retroactive assessment established by the Group until all claims, losses, costs, and other unpaid liabilities relating to the Member's period of membership have been resolved fully.

3.7.4 Each Member shall provide the Group with such information or assistance as may be necessary for the Group to carry out the Joint Insurance Purchasing Pool.

3.7.5 Each Member shall comply with all By-Laws, resolutions, and policies adopted by the Board of Directors and shall cooperate with the Group, and any insurer of the Group in accomplishing the purposes of this Agreement.

3.7.6 Each member shall participate as provided herein in the selection of members of the Board of Directors.

3.8 *Board of Directors Authority.*

3.8.1 The Group shall be governed by a Board of Directors. The Board of Directors shall consist of nine members, to be selected from the membership. Beginning with the second election of members to the Board of Directors, the members of that Board shall be selected as follows. The area served by the Group shall be divided into six geographic regions with each region represented by a number of representatives assigned to the region based on the number of Members from that region.

3.8.2 To insure that consistent management is provided for the Group into the future, the initial Board of Directors members shall have terms of one, two or three years. After the initial election, all Board of Directors members will be elected for a three year term. Those terms will provide that three of the nine Board members will be elected for full three year terms each year.

3.8.3 The Board of Directors shall elect a Chair for each fiscal year. In addition, the Board of Directors shall elect a Vice-Chair who will in the absence of the Chair or, in the event of the Chair's inability or refusal to act, perform the duties of the Chair.

3.8.4 Each member of the Board of Directors shall have one vote.

3.8.5 A majority of the members of the Board of Directors shall be required to transact the business of the Board of Directors.

3.8.6 The Third Party Administrator shall have the general supervisory control over the day to day decisions and administrative activities of the Group. Activities shall include but not be limited to: (1) negotiations and placement for insurance coverage contracts, (2) disbursal billings to individual Members for their proportionate charges, (3) payment and management of claims sustained by Members of the Group, (4) liaison with representatives acting on behalf of participating Members and (5) provision of other services as directed by the Board of Directors or by contract.

3.8.7 Administrative costs and charges to be paid to the Third Party Administrator shall be negotiated between the Board of Directors and the Administrator and reviewed on an annual basis by the Board of Directors as a part of the annual budget.

3.8.8 Pool funds shall be administered by the Group Administrator under the control and supervision of the Board of Directors. The Administrator will be authorized to disburse funds for the processing of covered claims and administrative costs. All parties having check writing authority on Group funds shall be bonded to the Group in an amount established by the Board of Directors.

3.8.9 The Board of Directors will provide for an annual audit of the accounts, records and claims of the Group. When an audit of the accounts and records is made by the Washington State Auditor's office, a report thereof shall be filed as a record with the office of the Administrator. Any audit of claims will include a report filed as a record with the office of the Administrator. Such reports shall be conducted and filed as required by law. Costs of audits shall be borne by the Group and shall be considered as administrative costs.

3.8.10 Pursuant to the laws and regulations of the State of Washington, the Group elects to invest its assets in permissible investments in a manner which is permitted by law, such manner of investment to be selected from time to time by resolution of the Board of Directors.

3.8.11 The Board of Directors shall establish an annual budget for the Group. The Administrator shall submit a proposed budget for the following fiscal year sixty days prior to the end of each fiscal year to the Board of Directors. Fiscal years for the Group shall be from September 1 through August 31 of the next calendar year. The Board of Directors shall determine the estimated expenses and costs to be incurred by the Group for the next fiscal year and shall adopt a budget derived from the Administrator's proposed budget. The budget shall be in a form to provide the following information for the Group as a whole: (1) beginning and ending unreserved fund balance, (2) anticipated revenues in detail, and (3) appropriations in detail. The Board of Directors shall apportion that budget cost among the Members. All payments due the Group from Members upon the basis of each budgeted assessment shall be paid as invoiced for the fiscal year for which the assessment is made.

3.8.12 The first budget and premium assessments shall be proposed by the Administrator and approved by the Board of Directors not later than thirty days after the effective date of this Agreement.

3.8.13 Any vacancies on the Board of Directors that occur during a term of office shall be filled by an election of Members in the area represented. Any replacement shall fill out the unexpired term of the Board Member replaced.

3.9 *Service Representative Relationship.*

3.9.1 Each participating Member of the Group shall designate a servicing representative to act on their behalf in liaison with the needs of the Group Administrator. Should a participating member choose not to designate a local servicing representative, the third party Administrator shall supply such services in accordance with a fee schedule adopted annually by the Board of Directors. Service representatives minimum duties and criteria will be established by resolution of the Board of Directors and reviewed annually. Duties will include, but are not limited to the providing of local claims assistance, the securing of underwriting information, completion of applications, updating of vehicle lists and information and such other functions as the Board of Directors may from time to time establish by resolution.

3.9.2 Any fees to be paid a servicing representative other than the third party Administrator by each Member will be established and paid by the Member.

3.9.3 Each Member agrees to indemnify and hold the Group, its Administrator, employees and agents, harmless from and indemnify them against any claims, complaints, causes of action or judgments arising from any allegation of a failure of the performance or negligence on the part of the Member's servicing representative including a failure to communicate to or forward communications from the Group, the Group's Administrator or any Group insurer. The employment of a servicing representative other than the third party Administrator and the scope of the services performed by that representative beyond established minimum duties and criteria is completely within the domain of the Member. A Member acts upon the advice and actions or inactions of its servicing representative at its sole risk.

3.10 *Effective Date of Pooled Insurance Purchasing Program.* The Joint Insurance Purchasing Pool became effective on September 1, 1985.

3.11 *Contingent Liability and Retroactive Assessments.*

3.11.1 Pursuant to the provisions of Revised Code of Washington Section 48.62.141, each Member shall be contingently liable for the liabilities of the Group in the event the assets or insurance of the Group are not sufficient to cover its liabilities. Any actual or projected deficits of the Group shall be financed through retroactive assessments levied against each Member in accordance with the following cost allocation methodology.

3.11.2 In the event the Group's assets should be insufficient to cover liabilities, the Board of Directors shall direct the Administrator to reassess Members an amount according to the following formula:

$$\begin{array}{rcl}
 \text{Member} & & \text{Member} \\
 \text{Reassessment} & & \text{Contribution or} \\
 \text{Amount} & = & \text{Assessments Since} \\
 & & \text{Inception} \\
 & & \hline
 & & \text{TOTAL OF ALL} \\
 & & \text{Assessment or} \\
 & & \text{Contributions Since} \\
 & & \text{Inception}
 \end{array}
 \times
 \begin{array}{l}
 \text{(Liability Due and Not} \\
 \text{Serviced By Current} \\
 \text{Pool Assets) +} \\
 \text{(Required Reserve} \\
 \text{Account)}
 \end{array}$$

The reassessment will be implemented only after a review of the circumstances surrounding the deficiency by the Board of Directors and approved by the Board of Directors. Should any Member leave the Group and subsequently a deficiency exist in the period that the entity was a Member of the Group, the school district in question shall be assessed the amount that the Group is held liable for the period in question.

3.12 *New Members.* School districts that are admitted as Members of the Group after one year from the effective date of the Joint Insurance Purchasing Pool may be required to pay a reasonable share of the unreserved fund balance of the Group and the costs necessary to analyze their loss data and determine their premiums. Any costs to be paid by the new Members shall be determined by the Board of Directors.

3.13 *Withdrawal.* A Member may withdraw only at the end of the Group's fiscal year (August 31) and only after it has given the Group written notice prior to December 31 of the preceding calendar year of its intent to withdraw from this Agreement.

3.14 *Cancellation.* The Group shall have the right to cancel any Member's participation in the Joint Insurance Purchasing Pool upon the affirmative vote of at least three-fourths of the whole Board of Directors at any regular or special meeting. Any Member so canceled shall be given 180 days' notice prior to the effective date of the cancellation. Notice of cancellation by an insurance carrier may be less than 180 days in accordance with provisions of the governing policy(ies).

3.15 Cancellation Basis. The group shall have the right to cancel any member's participation for failure to abide by membership requirements adopted by the Group. Membership requirements may include, but are not limited to: size of the school district, geographical location, loss history, financial stability, adherence to risk management guidelines of the Group and administrative stability. Membership requirements shall be adopted by the Board of Directors and may be amended from time to time as deemed necessary by the members and Board of Directors.

3.16 Effect of Withdrawal or Cancellation. Neither the withdrawal nor the cancellation of any Member shall cause the termination of this Agreement. No Member by withdrawing or having its membership canceled shall be entitled to payment or return of any assessment paid by the Member to the Group or any Group insurer, or to any distribution of the Group's assets. The withdrawal or cancellation of any Member after the effective date of the Joint Insurance Purchasing Pool shall not terminate its responsibility to contribute its share of any assessments or retroactive assessments established by the Group until all claims, losses, costs, and other unpaid liabilities relating to the Member's period of membership have been resolved fully and a determination of the final amount of payment owed by the Member or credit due the Member for the period of its membership has been made by the Board of Directors. In making this determination, the Board of Directors shall use the cost allocation methodology or methodologies established by the budgets adopted pursuant to the requirement of Section 3.6.1 hereof.

3.17 Termination and Distribution.

3.17.1 Termination. This Agreement may be terminated at any time by the written consent of three-fourths of the Members. However, this Agreement and the Group shall continue to exist for the purpose of paying all debts and liabilities, disposing of all claims, distributing net assets, and otherwise concluding and liquidating the affairs of the Group. The Board of Directors is vested with all powers of the Group during such concluding and liquidation, including the power to require Members, including those Members which withdrew prior to the termination date, to pay any retroactive assessments deemed necessary by the Board of Directors to fully resolve and dispose of all claims, losses and liabilities covered by this Agreement. The retroactive assessment shall be determined on the basis of the cost allocation methodology or methodologies established by the resolutions adopted pursuant to the requirements of Sections 3.6.1 and 3.11.2 hereof.

3.17.2 Distribution. Upon termination of this Agreement and full satisfaction of all outstanding claims, losses, and liabilities of the Group, all assets of the Group shall be distributed among the school districts that were Members of the Joint Insurance Purchasing Pool, on the date action to terminate this Agreement was taken, in proportion to the cash payments made by each Member during the term of this Agreement. The Board of Directors shall determine such distribution within six months after the last pending claim or loss covered by this Agreement has been resolved fully.

3.18 Notices. Notices to Members hereunder shall be sufficient if mailed to the office of the last official address of the respective Member.

3.19 Amendment. This Agreement may be amended at any time by the approval of three-fourths of the Members present or voting at any meeting of the Members. All amendments shall be in writing. Amendments may be proposed by the Board of Directors. Any proposed amendment to this agreement adopted by three-fourths of the whole Board of Directors shall be deemed adopted subject to review by the Members. If four-tenths of the Members present or voting at any meeting of the Members (called in accordance with Article 3 of the By-Laws) vote to repeal any amendment adopted by three-fourths of the whole Board of Directors, that amendment is deemed repealed.

3.20 Enforcement. The Group is hereby granted the authority to enforce the terms of this Agreement. In the event action is instituted to enforce any term of this Agreement or any term of the By-Laws against any Member or previous Member, the Member or previous Member agrees to pay such sums as the court may fix as reasonable attorneys' fees and costs in said action including fees and costs on appeal.

3.21 Default and Remedies. If any Member fails to perform any term or condition of this Agreement and such failure continues for a period of sixty days after the Group has given the Member written notice of such failure, the Member shall be in default hereunder. Upon default, the Group may immediately cancel the Member's membership effective immediately without further notice, or exercise any remedies herein provided or otherwise provided by law. The rights and remedies of the Group are cumulative in nature and pursuit of any particular remedy shall not be deemed an election of remedies or a waiver of any other remedies available hereunder or otherwise available by law.

3.22 No Waivers. No waiver or forbearance of a breach of any covenant, term, or condition of this Agreement shall be construed to be a waiver or forbearance of any other or subsequent breach of the same or of any other covenant, term or condition, and the acceptance of any performance hereunder, or the payment of any sum of money after the same has become due or at a time when any other default exists hereunder, shall not constitute waiver of the right to demand payment of all other sums owing or a waiver of any other default then or thereafter existing.

3.23 Prohibition Against Assignment. No Member may assign any right, claim or interest it may have under this Agreement, except to a successor entity following a statutory reorganization. Should any Member reorganize in accordance with the statutes of the State of Washington, the successor in interest, or successors in interest, may be substituted as a Member or Members upon approval of the Board of Directors. No creditor, assignee or third party beneficiary of any Member shall have any right, claim or title to any part, share, interest, fund premium or asset of the Group.

3.24 Entire Agreement. This Agreement contains the entire understanding of the parties, and they acknowledge that there is no other written or oral understanding or promise between them with respect to the matters addressed by this Agreement. This Agreement may not be altered, amended, or revoked except pursuant to the provision of Section 3.19.

3.25 Severability. If any term or provision of this Agreement shall to any extent be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each term and provision in this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

3.26 Time. Time is of the essence of this Agreement and each and every provision hereof.

3.27 Section Headings. The section headings in this Agreement are inserted for convenience only and are not intended to be used in the interpretation of the contents of the sections they introduce.

3.28 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

3.29 Counterpart Copies. This Agreement may be signed in counterpart or duplicate copies, and any signed counterpart or duplicate copy shall be equivalent to a signed original for all purposes.

4. *Execution.* The parties have executed this Agreement by authorized officials thereof.

Bellingham School District

Name of School District

Box 878

Mailing Address

1306 DuPont Street

Street Address (if different from above)

Bellingham, WA

City

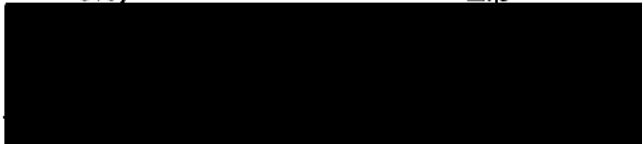
98827

Zip

360-676-6522

Phone

By



Signature of Authorized Official

Jim Stevens

(Print or Type Name)

Business Manager

Title

August 24, 1995

Date