

**WORKERS' COMPENSATION  
COOPERATIVE POOL ACCOUNT AGREEMENT**

This agreement is made and entered into by and between Educational Service District 113, Thurston County, Washington (hereinafter referred to as ESD 113) and \_\_\_\_\_ School District No. \_\_\_\_\_, \_\_\_\_\_ County, Washington (hereinafter referred to as District).

**I. PURPOSE**

The purpose of this agreement shall be to join together in a cooperative manner and form a pool to provide self-insured industrial insurance benefits which are a liability of the District, and to establish such cooperative as a separate accounting entity as provided in RCW 39.34.030.

**II. ORGANIZATION**

The Cooperative shall consist of eligible school districts and educational service districts, which execute a Cooperative Pool Account Agreement. There shall be established an ~~Cooperative~~ Advisory Board made up of one representative of each member district. The duties of the ~~Cooperative~~ Advisory Board shall be, but not limited to, meeting periodically to rule on matters such as Cooperative membership, matters of administration, cost control and annual assessment rate. Said assessment rate shall initially be set at the rate established by the Department of Labor and Industries for each employer; plus 1/2 the medical aid rate which was previously paid by employees; plus 1/2 the current supplemental pension rate. In addition, the ~~Cooperative~~ Advisory Board shall elect for staggered terms an Executive ~~Advisory~~ Committee consisting of six (6) members.

**III. BYLAWS**

The Executive ~~Advisory~~ Committee shall be responsible for establishing the bylaws of the Cooperative. Said bylaws shall be approved by a two-thirds (2/3) majority vote of the ~~Cooperative~~ Advisory Board. Such bylaws shall be part of the agreement as though set forth herein.

**IV. TERM OF AGREEMENT**

The term of this agreement shall be from July 1, 1983, to midnight August 31, 1984. The agreement shall then be automatically renewed from year to year thereafter unless the District gives written notice to ESD 113 of its election to terminate the agreement at least one hundred and eighty (180) days prior to midnight August 31, of any year, unless the agreement is terminated in accordance with Paragraph XI, XII or XIII.

**V. MEMBERSHIP IN POOL ACCOUNT COOPERATIVE, NEW MEMBERS AND EFFECTIVE MEMBERSHIP DATE**

The District shall become a full member of the Pool Account Cooperative. Membership shall entitle the District to designate a representative to the ~~Cooperative~~ Advisory Board.

Any District who shall become a member of the Pool Account Cooperative subsequent to midnight August 31, 1988, shall be eligible to participate at the beginning of the next calendar quarter. The assessment for such members will be established by the ~~Cooperative~~ Advisory Board.

**VII. DUTIES OF THE DISTRICT**

In accordance with this agreement, the District will:

- A. Designate a representative to the ~~Cooperative~~ Advisory Board.

- B. In accordance with the majority vote of a quorum of the ~~Cooperative~~-Advisory Board, pay to ESD 113, as Pool trustee, the annual rate of assessment set for the term of the agreement. Said assessment shall be postmarked within five (5) working days of the normal pay date and in any event, no later than the fifth working day of the next succeeding month. A penalty on delinquent payments shall be assessed at the rate of the highest existing interest rate that funds of the Cooperative are earning in that month plus a flat charge of twenty-five dollars (\$25).
- C. Provide to ESD 113, as Pool Account trustee, such data as may be deemed necessary by the Cooperative for statistical information purposes as related to management of the Pool Account.
- D. Pay to ESD 113 a fee for management of the Pool Account, if necessary. The fee shall be set and approved by the ~~Cooperative~~-Advisory Board and approval shall require two-thirds (2/3) majority vote of the membership.
- E. Be ultimately responsible for any portion of workers' compensation claims charged or chargeable against the District as determined by the ~~Cooperative~~-Advisory Board. Because the amount required fulfilling worker's compensation obligations cannot be known precisely in advance, assessments, reserve requirements and other financial parameters of the Cooperative's operation must necessarily be initially established and subsequently maintained by means of estimates. Any interim transactions and their effects on the Cooperative notwithstanding, the District further understands and agrees that the Cooperative and all members participating in the Cooperative for any period of time will be jointly and severally liable for payment of any assessments, premiums, and other amounts necessary to meet any benefit, expense or other lawful obligation of the Cooperative arising from that period of time. The District further understands and agrees that this joint and several liability will apply without limitations as to amount, without any restriction as to when any portion of the obligation is identified, and extends to all obligations including the Cooperative's joint and several liability for payment of any lawful award against any member of the Cooperative Trust Fund. The District further understand and agrees that any members who terminate their participation in the Cooperative, voluntarily or involuntarily, will remain liable for payment of their share of reassessed premium as noted in section VI-F attributable to their period of membership.
- F. In the event of leaving the Cooperative as provided in Section IV or Section XI-B, the District shall be required to fund, upon departure, its share of the membership's reassessed premiums to achieve the goal of establishing an equity or confidence level of 90%. If at the time a member district notifies ESD 113 of their decision to leave the Cooperative and the Cooperative ending fund balance (equity) or confidence level is less than 90% as determined by the Cooperative's last actuarial review, the district will be reassessed their share of additional premiums to achieve a 90% confidence level. A 90% confidence level means that should the ~~Cooperative's~~-Advisory Board (superintendents) elect to dissolve the Cooperative, the membership, at the time of dissolving the Cooperative, has a 90% assurance that there will not be a need to reassess the membership. The departing district's share (%) of reassessed premiums will be determined by dividing the district's number of hours worked during their membership in the Cooperative into the Cooperative's total hours during the same period. The reassessed premiums can be paid in full at the time the district leaves the Cooperative or over a limited number of years. If the Cooperative is at a 90% level at the time a district elects to leave the Cooperative, the district will not be reassessed additional premiums. Also, the departing district will not be required to pay a reassessment after leaving the Cooperative.

If the Cooperative's confidence level is greater than 90% at the time a district elects to leave the Cooperative, the district would not be entitled to any assets of the Cooperative. If the Cooperative was to dissolve, the assets remaining after all of the membership's liabilities (claim costs/operating costs) have been paid, would be distributed per section "XIV Distribution of Assets upon Dissolution" to the districts that were members at the time of dissolution.
- G. Designate an individual to provide liaison with the ESD in workers' compensation matters.

- H. Establish and maintain an accident prevention program as required by the Department of Labor and Industries.

## VII. DUTIES OF ESD 113

In accordance with this agreement, ESD 113 shall:

A. Act as Pool Account trustee, and in this regard will:

1. Receive all Pool Account Cooperative payments per Paragraph VI-B.
2. Place all Pool Account Cooperative payments on deposit with the County Treasurer of Thurston County, Washington, to the credit of the Cooperative.
3. Ensure that such deposits are invested to gain maximum interest income, which will accrue to the credit of the Cooperative. Said investments shall be made through and by the County Treasurer of Thurston County, Washington
4. Authorize individuals appointed by the ESD 113 Board of Directors to invest funds on behalf of ESD 113 to invest funds on behalf of the Cooperative.
5. Pay from the Pool Account funds, on deposit with the Thurston County Treasurer, all workers' compensation claims for actual benefit liabilities. Such claims will be paid in accordance with state industrial insurance laws.
6. Provide for the receipt and disbursement of funds and maintain adequate financial records or receipts and disbursements in order to properly manage the Pool Account as well as provide financial reports to the ~~Cooperative~~ Advisory Board. In addition, adequate statistical records will be maintained based on data referred to in Paragraph VI-C in order to project Pool Account assessments required.
7. Authorize the auditing office appointed by the ESD 113 Board of Directors for the general fund of ESD 113 to sign all claim vouchers for the Cooperative.
8. Be responsible for employment of any necessary staff and the general administration of the Cooperative to include cost control, claims review/processing and required reporting on behalf of the Cooperative.

## VIII. CONFIDENTIALITY

All data or information furnished to ESD 113 as Pool Account trustee by the District pursuant to this agreement shall remain the property of the District and shall not be disclosed to third parties except by prior written consent of the District. The only exception to this will be data or information required by the Washington State Department of Labor and Industries or the Washington State Auditor's office within constraints of the Public Disclosure laws.

## IX. PUBLIC DISCLOSURE

No records of the District shall be made available for public inspection or copying by any party except as set forth in Paragraph VIII without prior written consent of the District. Requests pursuant to RCW 42.17 for inspection or copying of public records of the District held or maintained by ESD 113, as trustee shall be referred to the District.

## **X. DISPUTES**

Any dispute, claims or grievance arising out of or relating to the interpretation or application of this agreement shall be submitted first to the ~~Cooperative~~ Executive ~~Advisory~~ Committee for their recommendation. Appeals on all disputes will be presented to the ~~Cooperative~~ Advisory Board. The final decision on all disputes shall be made by the ~~Cooperative~~ Advisory Board.

## **XI. TERMINATION FOR BREACH**

- A. If ESD 113, as trustee, fails to comply with the terms and conditions of this agreement, the Cooperative, by two-thirds (2/3) majority vote of the total ~~Cooperative~~ Advisory Board, upon thirty (30) days prior written notice to ESD 113, may terminate ESD 113 as trustee. If ESD 113 is terminated as trustee, the ~~Cooperative~~ Advisory Board, on recommendation of the Executive ~~Advisory~~ Committee, will name a new trustee who will function in that position on behalf of the Cooperative.
- B. If the District fails to comply with these terms and conditions of this agreement, the Executive ~~Advisory~~ Committee shall review the conditions of the breach of the agreement and make recommendations to the ~~Cooperative~~ Advisory Board. The ~~Cooperative~~ Advisory Board shall review the breach, and upon two-thirds (2/3) majority vote of the ~~Cooperative~~ Advisory Board, upon thirty (30) days prior written notice to the District, may terminate this agreement. In this regard, all actions of the Advisory Board are final.

## **XII. TERMINATION OF TRUSTEE**

ESD 113 may terminate as Pool Account trustee by thirty (30) days prior written notice to the ~~Cooperative~~ Advisory Board with the effective date midnight, August 31, of any year.

## **XIII. DISSOLUTION OF THE COOPERATIVE**

The cooperative may be dissolved by two-thirds (2/3) majority vote of the ~~Cooperative~~ Advisory Board with the effective date midnight, August 31, of any year.

## **XIV. DISTRIBUTION OF ASSETS UPON DISSOLUTION**

Upon dissolution of the Cooperative for any reason, each District shall be entitled to its prorated share of principal payments plus accrued interest, less prior obligations paid and current obligations to be paid, on deposit with the Thurston County Treasurer at the date of dissolution. Such prorations shall be equivalent to the percentage each district's principal payments bear to the total of all principal payments.

## **XV. ASSIGNMENT**

This agreement may not be assigned by either party without prior written consent of the parties.

## **XVI. WAIVER AND SEVERABILITY**

No provision of this agreement, or the right to receive reasonable performance of any act called for by its terms, shall be deemed waived by a breach thereof as to a particular transaction or occurrence.

If any term or condition of this agreement or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other terms, conditions or applications of the agreement, which can be given effect without the invalid term, condition, or application, to this end the terms and conditions of the agreement are declared severable.

The parties acknowledge that they have read and understand this agreement, including any supplements or attachments thereto, and do agree thereto in every particular. The parties further agree that this agreement, together with any appendices, constitutes the entire agreement between the parties and

supersedes all communications, written or oral, heretofore related to the subject matter of this agreement.  
This agreement may be modified only in writing, signed by both parties.

EDUCATIONAL SERVICE DISTRICT 113

\_\_\_\_\_ SCHOOL DISTRICT No. \_\_\_\_\_

| Signed this \_\_\_\_ day of \_\_\_\_\_, 20084

Signed this \_\_\_\_ day of \_\_\_\_\_, 20084

By \_\_\_\_\_  
Chair, Board of Directors

By \_\_\_\_\_  
Chair/President, Board of Directors

By \_\_\_\_\_  
Superintendent

By \_\_\_\_\_  
Superintendent

ESD 113 WORKERS' COMPENSATION TRUST  
CONSTITUTION AND BYLAWS

**CONSTITUTION**

I. NAME

This organization shall be known as the ESD 113 Workers' Compensation Trust.

II. PURPOSE

The purpose of this organization shall be to provide group and claims control for workers' compensation to the member school districts and ESDs.

III. MEMBERS

- A. The membership of the Trust shall consist of the several school districts and ESDs who sign contracts for services with the Trust. No partial memberships will be allowed.
- B. School districts and ESDs that apply for membership shall be offered a contract only upon approval of a majority of member representatives meeting at an Advisory Board meeting.

IV. OFFICERS AND THEIR ELECTION

- A. The Executive ~~Advisory~~ Committee (Trustees), consisting of six (6) members elected by the Advisory Board, shall select a Chairman from among its members annually, and said Chairman shall also serve as Advisory Board Chairman.
- B. The secretary shall be designated by the Executive ~~Advisory~~ Committee Chairman annually.

V. MEETINGS

- A. The Advisory Board shall meet as required, when called by the Chairman or a majority of its members to conduct the business of the Trust; provided, that there shall be at least one meeting of said Board annually between September 1 and August 31.
- B. The Executive ~~Advisory~~ Committee shall meet ~~quarterly as necessary~~ provided that the Chairman or a majority of its members may call a meeting at any time deemed necessary.

VI. AMENDMENTS

This constitution may be amended at any meeting of the Advisory Board by a two-thirds majority vote of all members present; provided that notice, in writing, has been sent to all members in advance of the meeting.

## **BYLAWS**

### **I. POWERS**

- A. This Trust shall have the power to prepare and adopt, amend and repeal bylaws, rules and regulations and general policy statements for its own organization, government and guidance, provided that action taken with respect thereto is not inconsistent with State Law, the Washington Administrative Code and the Rules and Regulations of the Educational Service 113 Board of Education Directors.
- B. This shall have the power to call meetings of the Advisory Board, the Executive Advisory Committee and other committees as are deemed essential to the accomplishment of its purpose.
- C. This Trust shall the annual assessment rates and modification factors that may be required.
- D. This Trust shall advise Educational Service District 113 on the management of the Cooperative including increases in staff FTE.

### **II. GOVERNANCE AND MANAGEMENT**

- A. The power of the Trust shall rest with the Advisory Board consisting of one representative of each member district, that member being the superintendent or his designee.
- B. Each representative shall have an equal vote in all deliberations of the Trust.
- C. Between meetings of the Advisory Board, the powers of the Trust shall be exercised by a six member Executive Advisory Committee selected by the Advisory Board for staggered two-year terms with at least one member from each county in ESD113.
- D. All actions of the Executive Advisory Committee are subject to ratification by the Advisory Board at its next meeting.

### **III. VACANCIES**

- A. Vacancies which occur in the membership of the Advisory Board shall be filled by the affected member district.
- B. Vacancies on the Executive Advisory Committee shall be filled by a quorum of the Advisory Board. Executive Advisory Committee members who have been selected to fill a vacancy shall serve the unexpired portion of the term.

### **IV. MEETINGS**

- A. If a member of the Executive Advisory Committee misses three successive meetings, that member may be replaced as prescribed in Section III, B.
- B. At all meetings of the Advisory Board, 25 percent of the membership shall constitute a quorum.
- C. At all meetings of the Executive Advisory Committee, a majority of its members shall constitute a quorum.

### **V. OTHER COMMITTEES**

The Chairman may appoint such other ad hoc committees as are deemed necessary from time to time to advise the Advisory Board.

## VI. FINANCIAL OBLIGATIONS

Expenditures incurred in the management of the operation of the Trust must be in accordance with its approved budget and must be authorized by the Educational Service District 113 Board of ~~Education~~Directors.

## VII. PARLIAMENTARY PROCEDURES

All questions of parliamentary procedure shall be governed in accordance with Roberts Rules of Order (Revised).

## VIII. AMENDMENTS

A. These bylaws may be amended at any meeting of the Advisory Board by a two-third majority vote of all members present; provided that notice, in writing, has been sent to all members in advance of the meeting.

B. In the event of any emergency where the purpose of the Trust would suffer materially by delay, Section VIII, A may be suspended, provided that the Chairman or a quorum of the Executive ~~Advisory~~ Committee declares that an emergency exists, and prior to the meeting at which the subject of suspension is to be addressed, the Executive ~~Advisory Committee~~ is notified individually of the nature of the emergency. The affirmative vote of the majority of the quorum shall be necessary to ~~effect~~affect the suspension.

[Notes:

The following changes incorporate 2004 discussions clarifying the role of ESD and Executive Committee. All amended documents should be filed with L&I.

Constitution V.B.: this change recommended by Exec Committee October 27 and December 8, 2004.

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The ESD will be referred to in all documents as the "Pool Account Trustee" by Exec Committee October 27 and December 8, 2004.

Bylaws I. D.: this change recommended by Exec Committee October 27 and December 8, 2004.

The following changes incorporate the commonly used names throughout ESD cooperative agreements, and to use the same terms consistently throughout the WCT documents.

Change "Cooperative Advisory Board" to "Advisory Board"

Change "Executive Advisory Committee" to "Executive Committee"

Change ESD 113 Board and ESD 113 Board of Education, to ESD 113 Board of Directors.