



## POOL EXPLORES BUSINESS MODEL OPTIONS

By David Goldsmith, Member Services

### Board Seeks Comments of Members

During the Autumn 2009 Board of Directors Meeting in Kennewick, member representatives were asked to consider the following question: Should the Pool look at creating a hybrid program by introducing a Self Insured Retention option along with its Deductible program? Currently all the counties making up the Pool and their collective claims histories are rated by underwriters as one entity. With a hybrid program, the deductible program would presumably be rated separately from the SIR program, and perhaps even individual counties participating in the SIR program would be rated individually. At some point the two programs would likely be combined to risk share and meet the definition of "pooling" established by statute.

### Historical Perspective

The Washington Counties Risk Pool was 'Created by Counties for Counties' in the late 1980's due to a number of circumstances which, for the most part, rendered commercial insurance not available to municipalities across the country. The jointly self-funded ("risk shared") coverage concept remains the same today as it was when the Pool was proposed and established in 1988 – *first dollar coverage subject to member-selected deductibles*. For the first two months in late 1988 the program was fully self-funded with a \$1M limit. The basic limits were then increased to \$5M, and to \$10M beginning year seven. The basic limits were again elevated to \$15M for year fifteen before reaching the \$20M basic limit that has existed since late 2003. An additional \$5M limit has been an available option many years.

When the coverage limits were increased beyond \$1M, the risk shared component was reduced to

\$500,000. Upper limits were acquired by jointly purchasing excess insurance from various high-rated commercial carriers. When reinsurance was legislatively authorized, the Pool's Board(s) of Directors decided, beginning with year seven (1994-1995), to reinsure coverage limits over \$10M. This change was implemented so greater case management authority could be retained by the Pool and not transferred to the commercial insurers, as well as reducing the volatility of the Pool's exposure and taking advantage of the soft insurance market. In the eleventh year of operation (1998-99) the Pool moved from a \$500,000 risk sharing level to a \$100,000 risk sharing level.

As the coverage grew so did the deductible levels offered the membership. Starting with a minimum deductible of \$5,000 and a maximum of \$100,000, the Pool now offers a minimum deductible of \$10,000 and a maximum of \$500,000.

### Increased Reporting Requirements

In the early stages of its history, the Pool deferred much of the defense of claims to the counties and their elected or appointed staff, choosing not to internalize the costs associated with everyday claims activity, and focusing the Pool's staff resources on claims of higher exposure. With a \$250,000 reporting level to insurers, much of the claims activity was under the radar of the Pool's insuring partners. However, when the Pool moved to a \$100,000 risk sharing level, its reporting requirements to the reinsurers were reduced to \$50,000. In 2003, the Pool began offering a \$500,000 deductible to its members.

While this deductible level was designed to meet

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the needs of larger counties, it has created claims management challenges for counties and for pool staff in trying to meet the requirements and guidelines of the JSILP. Some of those challenges are timely reporting of claims, the progress of the litigation process, participation and control of settlement offers, and general control over the management of the claim. Still, the Pool's liability coverage is a deductible program, and as such the Pool must retain control over covered claims and their development.

**Task Force Created**

A task force, chaired by Past WCRP President and Chelan County Commissioner Keith Goehner, will be reviewing options over the course of the next several months. The members of the task force will be asked to identify issues, needs and desires, and determine optional models that might be considered to recommend through the Executive Committee to the Board of Directors and the membership. Ultimately, the decision will be based on what is in the best long term interest of the Pool and its membership.



Commissioner Keith Goehner to chair task force

The recommendation(s) from the task force and the Executive Committee are due by the Spring 2010 Board Meeting where a full discussion of the issues will be presented, debated and resolution sought.

**Opportunities**

All businesses experience change, and Pool changes have been incorporated with the intent of best serving the interests of all of the Pool's member counties. The Risk Pool's Strategic Plan requires the Pool to provide comprehensive and economical risk coverage and to improve the efficiency and effectiveness of the Pool's business practices. I applaud all the members, each and every one of you, for taking the time to understand the issues and opportunities presented by the membership, and seeking ways to satisfy concerns consistent with the needs of the organization.



Vyrle Hill



**Poolside**

with Executive Director  
**Vyrle Hill**

This column is intended to share a few Pool administration tidbits. Please take time, however, to read elsewhere in this newsletter about many other worthy Pool happenings.

2010 will soon be ushered in to replace 2009! And the Washington Counties Risk Pool's first twenty one years are, as the saying goes, "in the books" for the most part. Everyone associated with the Pool can be proud of its accomplishments and success.

The Risk Pool's successes have resulted in part from the combined efforts of the professionals retained by the Board of Directors, e.g. actuaries, auditors, brokers, insurers, and the Pool's professional and dedicated staff. It's the contributions and involvement of the Member Counties' elected and appointed officials and employees, however, serving as the Pool's directors and alternate directors and as officers and committeepersons that is the kingpin to its success and sets the Washington Counties Risk Pool apart from most of the other pools.

**Operational:** Two county risk managers who were involved for sometime with the Risk Pool became casualties of the economic downturn and their respective county's budget reduction actions this past year. Anne Sullivan had served five years as Grays Harbor County's Risk Manager, and Lone Siegler had served fourteen years as Mason County's Risk Manager. They will be missed, and we wish them the very best that life has to offer!

The State Auditor's Office has commenced its field examination of the Risk Pool's Py2009 finances and operations. An early estimate suggests the audit reports being published and available in February 2010.

**Financial:** The Risk Pool's financial position has

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# HAPPY HOLIDAYS!



### **Executive Committee**

#### **President**

Jay Winter, Walla Walla County

#### **Secretary/Treasurer**

Marilyn Butler, Skamania County

#### **Other Members**

Tammy Devlin, Thurston County

F. Lee Grose, Lewis County

Rose Elway, Grays Harbor County

Steve Clem, Douglas County

Randy Watts, Whatcom County

Andrew Lampe, Okanogan County

Keith Goehner, Chelan County

Mark Abernathy, Kitsap County

Steve Bartel, Spokane County

#### **Risk Pool Staff**

##### Administration

Vyrle Hill, Executive Director

Sue Colbo, Auditing/Accounting Officer

Claire Thompson, Assistant/Editor

##### Claims

Susan Looker, Manager

Candy Drews, Senior Analyst

Mike Cook, Analyst

Tammy Cahill, Representative

Lisa Daly, Assistant

##### Member Services

David Goldsmith

Jill Lowe, Loss Control Coordinator

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Published by



**WASHINGTON COUNTIES RISK POOL**

Created by Counties for Counties

From the Staff of the  
Washington Counties Risk Pool

*Susan*      *Lisa*      *Jill*  
*Candy*      *Sue*      *Tammy*      *Mike*  
*Claire*      *Vyrle*      *Candice*



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continued to improve and remains the strongest it has ever been. These are a few of the more significant highlights from Py2009:

**Operating Income:** Up 40% to \$1.15 million.

**Investment Income:** Slipped 65% to just \$0.22 million due to nearly non-existent rates.

**Total Assets:** Grew \$4.64 million (15%) to more than \$35.71 million. Current assets increased \$4.69 million (16%), while non-current assets decreased \$0.05 million (-4%).

**Claims Reserves:** Total \$13.13 million that includes \$7.09 million for losses in the Pool's retained layer, \$5.14 million for losses within the automobile/general liability "corridor" program's aggregated stop loss, and \$0.90 million for unallocated loss adjustment expenses.

**Net Assets, sometimes referred to as "Members' Equity":** Up \$1.38 million (20%) to nearly \$8.16 million as of September 30, 2009. \$6.35 million is held as "Restricted Net Assets" to satisfy provisions in the WCRP Underwriting Policy. \$1.06 million is invested in Capital Assets (net of debt). And \$0.76 million is listed as "Non-Restricted".

**Confidence Level:** Grown steadily and now exceeds the Board of Directors' 98% goal.

**Assets to Liabilities Ratio:** This is a comparison of available assets to the Pool's estimated claims liabilities and reported to the state Office of Financial Management. Growing steadily from 0.95 five years ago, the ratio is now 2.30, well above the State Risk Manager's "watch" level.

**Claims:** 966 cases were added to the Pool's claims-related database during Py2009. This raised the total of third-party liability claims and lawsuits submitted by WCRP member counties between October 1988 and September 2009 to 16,470. With nearly 16,000 cases resolved, only 492 remained in "open" status at year's end. Still, independent actuarial estimates suggest another 553 claims may be filed for covered occurrences, which would bring the estimated ultimate claims total to 17,023.

Nearly \$168 million has been paid-to-date addressing these, even with 40% of the cases

resolved without any payments. The amounts paid include more than \$60 million in member reimbursements for their deductibles, insurer payments of more than \$59 million, and Pool funds for the "risk shared" portions of more than \$48 million. Another \$36 million are estimated as needed to resolve the "open" cases. And following the recommendations of the independent actuary, nearly \$4 million have been reserved for the "risk shared" components to address adverse developments in filed cases, as well as the yet-to-be-filed covered cases that stem from occurrences over the past 21 years.

**Executive Director Contact:** I am always available to respond to member inquiries. Please feel free to share your comments, suggestions and criticisms; for it is only from knowing what our client partners are thinking and experiencing that we can better serve you. Direct these to Vyrle Hill – WCRP Executive Director, 2558 R.W. Johnson Road S.W., Suite 106, Tumwater, WA 98512-6103; OR phone: 360/292-4500 extension 101, 360/292-4495 direct, 360/292-4501 facsimile, or 360/480-2116 mobile.

The County Training Institute (CTI) offers professional development training to public officials, managers, staff and affiliates. The CTI is seeking instructors for the 2010 schedule. If you have a topic and/or instructor you would like to recommend, please contact Tonia Sugarman, Program Manager at [tsugarman@wacounties.org](mailto:tsugarman@wacounties.org) or (360) 586-4219 ext 128.

## NEED A TRAINING VIDEO?

[www.wsttc.org](http://www.wsttc.org)



# Helpline NEWS



**Here is the latest Question of the Month from the WCRP HelpLine HR Express Update:**

**Question:**

*Before we make an official offer, we will often ask that candidate to come in for a "trial shift." What our managers will look for are generic traits, such as a high level of energy, ability to move quickly, ability to learn and repeat simple tasks, level of enthusiasm, and so on. If we do not feel that the candidate "passes" the trial successfully, we do not pay them, but provide them a meal. If we do feel that the candidate passes, we move forward in the hiring process, now checking references, and if OK, making a formal offer. Only then does the "employee" fill out their paperwork (W-4, I-9, etc.). As a matter of practice, we will go back and pay the new employee for the hours spent on their trial shift.*

*Is this an acceptable way to determine whether a potential candidate is worth the effort of hiring?*

**Answer:**

Technically, any time a worker spends under the direction and control of the employer is compensable, and this would include time spent working during a "trial shift," especially if the individual is performing services for the employer.

That said, the US Department of Labor recognizes that in some cases, job training does not create an actual employment relationship. In this regard, if ALL SIX of the following criteria are met relative to the "trial shift," the DOL would not view the parties' relationship as one of employment, and the employer would not bear a duty to compensate the worker: (1) the training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in a vocational school; (2) the training is for the benefit of the applicants; (3) the trainees do not displace regular employees, but work under close observation; (4) the employer that provides the training derives no immediate advantage from the activities of the trainees, and on occasion his operations may actually be impeded; (5) the trainees are not necessarily entitled to a job at the conclusion of

the training period; and (6) the employer and the trainees understand that the trainees are not entitled to wages for the time spent in training.

Since it appears from this inquiry that the workers in question are actually performing services for the employer's benefit, we are concerned that the 2nd, 3rd and 4th criteria may not be satisfied. As well, it is not clear if the duties performed during the "trial shift" are akin to those that would be provided in a vocational school. The US DOL issued an Opinion Letter on this issue at [www.dol.gov/esa/whd/opinion/FLSA/2004/2004\\_10\\_29\\_18\\_FLSA\\_Pre-HireView.htm](http://www.dol.gov/esa/whd/opinion/FLSA/2004/2004_10_29_18_FLSA_Pre-HireView.htm) that we recommend you review. To the extent the "trial shift" is not properly excepted, the employer would be obligated to hire the workers and pay them at least minimum wage for these hours worked. (As an aside, the employer must be cautious when using "ability to move quickly" and similar criteria to evaluate employees (or potential employees).

To the extent an individual moved more slowly due to a disability, the Americans with Disabilities Act would entitle that employee to be protected from discrimination on the basis of the disability, and may require the employer to reasonably accommodate such a worker. This may include allowing him or her to work more slowly, if it is not unduly burdensome for the employer to allow. Although this was not the focus of your inquiry, we did want to raise it as an issue. For more information on your obligations under the ADA, please see <http://www.eeoc.gov/facts/ada17.html> ).





# SAFETY NEWS



## School's In Session – Part 2 of 2

(This is the second part of a two part series on driver safety specific to school days.)

### Safety Around School Buses

There appears to be no recent national statistics that will tell us just how extensive the problem is of drivers illegally passing school buses while loading and unloading. However, the below two paragraphs provide a good indication:

In 2002, the Kansas State Department of Education released a study on school bus loading and unloading. The study was national in scope and covered grades K-12 for the period from 1970 to 2002. The study found that 1,102 students were killed by another vehicle while boarding or egressing. That represents 46 percent of the loading and unloading fatalities (the other 54 percent were killed by the school bus). Most of the fatalities (67 percent) were of children ages 2—8.



The State of Virginia conducted a one-day study, counting the number of vehicles who illegally passed a stopped school bus. The count was an astonishing 3,394 observed violations! Of that total, 187 were right hand passes (on the side of the bus where students enter and exit the bus).

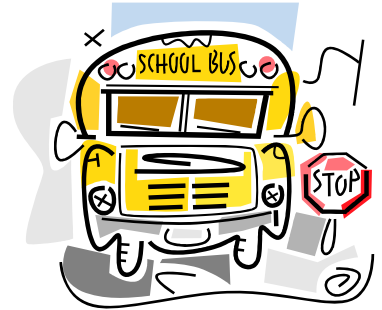
With the large numbers of drivers illegally passing school buses, it's a wonder that the number of children hurt or killed is not larger. Fortunately, most schools have done a tremendous job of educating children and training school bus drivers to watch out for bus stop dangers and to proceed with caution. Technologies, such as the front arm on some buses, that keep children from being hidden from the bus driver by the front hood of the bus, have also contributed. Also, policy in many jurisdictions are encouraging bus drivers to report illegal passing. And, the police are following up on these reports.

The Big Question: Why would anyone put a child's life in

jeopardy by passing a stopped school bus with the red lights flashing? I hope you find that as disturbing and puzzling as I do.

### Deliberate Passing

Unfortunately, there are a few people who will deliberately pass a stopped school bus and risk striking a child. I can only conclude that such persons must believe that the risk is worth the time saved in their fast-paced self-absorbed lives. It is probably too late to influence them to change prior to a tragedy.



Deliberate passing is most likely to occur in an attempt to pass a bus before it stops, or after, presumably, all the children have loaded, but the bus has not yet proceeded. There is always some delay in driving off as bus drivers are required to wait until all the children are seated on the bus, or for egress, safely off the road, before canceling the flashing red lights and proceeding.

Putting deliberate passing aside, for most of the rest of us I think the main reasons for illegally passing a stopped school bus are likely related to distracted driving or ignorance of the law.

### Distracted Driving

With all the possible distractions in today's driving world, it is no wonder that some people illegally pass school buses. Driving distractions cause people to become less alert to what is going on around them. We see this demonstrated not only in running red lights, not using turn signals, abrupt turns, and making lane changes without looking. Talking on the cell phone or texting are the big ones, but there are many other distractions too numerous to cite here. In many instances, police reports state that the driver said s/he simply did not see the flashing lights. The solution of course is very simple: *Stop doing the things that are distracting you from the important task of driving!*

### Ignorance of the Law

Every state has laws making it illegal to pass a school bus that is stopped to load or unload children. And, in every state, school bus drivers use yellow flashing lights



to alert other motorists that they are preparing to stop to load or unload children. The flashing yellow lights are

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# SAFETY NEWS



followed by flashing red lights and an extended stop arm to signal that the bus has stopped, and that children are getting on or off the bus.

Every state requires traffic in both directions to stop on undivided highways when children are loading or getting off the bus. For divided highways, state laws vary on what is required and even on what constitutes a divided highway. Some states allow traffic on divided highways traveling in the opposite direction of the school bus to continue. But, in all states, traffic on divided highways behind the bus and traveling in the same direction of the bus must stop.

Do you know the school bus laws for divided highways where you drive?

Distractions and ignorance are poor excuses for passing a stopped school bus with lights flashing. Deliberately passing one is either stupidity or insanity.

## Watch Out For the Little Ones. Give School Buses a Brake!



Article written by  
Tim White  
Senior Loss Control Consultant  
Gallagher Transportation Services  
Arthur J. Gallagher Risk Management Services, Inc.

*"The information contained in this report was obtained from sources which, to the best of the writer's knowledge are authentic and reliable. Arthur J. Gallagher Risk Management Services, Inc. makes no guarantee of results, and assumes no liability in connection with either the information herein contained, or the safety suggestions herein made. Moreover, it cannot be assumed that every acceptable safety procedure is contained herein, or that abnormal or unusual circumstances may not warrant or require further or additional procedures."*

## NIGHT TIME DRIVING SUGGESTIONS

According to the National Safety Council, nighttime traffic death rates are three times higher than daytime rates. You can increase your odds of not getting in a nighttime traffic accident by following these suggestions.

1. Make sure you have your eyes checked regularly. If you need corrective lenses, wear them. It is also a good idea to have an extra pair of eye glasses or contact lenses with you.
2. Get plenty of rest before you begin your trip, and schedule your trip so you can take plenty of breaks, if needed. On your breaks, get out of the vehicle and move around to help you stay fresh and alert. If you become drowsy, find a safe place to stop and get some rest.
3. Have a "light" meal before you leave. Heavy meals can cause you to feel drowsy. Drink plenty of water. This allows your body to operate more efficiently.
4. Clean your windshield, windows, lights, reflectors, and reflective surfaces. Inspect your vehicle to ensure all lights, windshield wipers and other necessary parts and accessories are working properly. Make sure you have your emergency kit stocked with all necessary items.
5. The hour before dusk and the hour before dawn are often the most visually challenging times to drive. Make sure your lights are on. Slow down. Limit your speed to the range of your headlights. Increase your following distance.
6. Use your high-beam headlights whenever possible to increase your sight distance. When meeting other vehicles, look toward the shoulder or fog line to avoid being blinded by oncoming headlights. Do not flash your headlights at approaching motorists if they are using their bright lights. This can only make matters worse by temporarily blinding them too.
7. Watch for animals on or near the roadway especially when you see caution signs. Highway departments post those signs after several animal collisions have occurred on that particular stretch of highway. If you encounter wildlife on the roadway, avoid swerving as it will jeopardize your ability to remain in control of your vehicle.
8. Watch for impaired or fatigued drivers. Be prepared to take evasive action if necessary. Use your radio or telephone to report impaired drivers to the police.
9. Watch for stalled or abandoned vehicles on the side of the road, or in the roadway. If your vehicle breaks down, move as far off the roadway as possible and immediately set up reflective triangles in the prescribed manner.

These tips are from an article written by Tim White  
Senior Loss Control Consultant  
Gallagher Transportation Services  
Arthur J. Gallagher Risk Management Services, Inc.



# TRAINING & EVENTS



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## January 2010—April 2010:

1-1/2 day Management & Supervisory Training will be held in various county locations! You can look at the entire schedule of dates and locations at [www.wcrp.info](http://www.wcrp.info) ([Training](#) tab).

## January 2010—March 2010

The Risk Pool is offering three more opportunities to attend Comprehensive Public Records Officer Training and Certification. Please see our website at [www.wcrp.info](http://www.wcrp.info) ([Training](#) tab) for additional information about the training.

## March 24-26, 2010

WCRP Spring Conference and Board of Directors Meeting, Suncadia Lodge, Roslyn, Washington.

## July 21-23, 2010

WCRP Summer Conference and Annual Board of Directors Meeting, location to be determined.

You can get more information, access driving directions, and register for classes and events  
at:  
[www.wcrp.info](http://www.wcrp.info)