

ENROLLED SENATE
BILL NO. 646

BY: WILLIAMS (Don), CAPPS, KERR,
MUEGGE, SHEDRICK, SHURDEN, FISHER,
HELTON, WILKERSON and LONG (Ed) of
the SENATE

and

LITTLEFIELD, ADAIR, HAGER, HANSEN,
LEIST, MATLOCK, COMBS, COTNER,
HAMILTON (Jeff), HEFNER, HILLIARD,
LUCAS, MADDUX (Elmer), MITCHELL,
MONKS, REESE, SATTERFIELD, SEIKEL,
SMITH (Bill), SMITH (Dale),
STITES, VAUGHN (George), WIDENER
and WILLIAMS of the HOUSE

AN ACT RELATING TO RURAL FIRE PROTECTION; AMENDING 19
O.S. 1991, SECTIONS 901.56, 901.57, 74 O.S. 1991,
SECTIONS 85.12 AND 85.34A, WHICH RELATE TO RURAL
FIRE DISTRICTS AND OFFICE OF PUBLIC AFFAIRS;
MODIFYING STATUTORY REFERENCE; DELETING CERTAIN
ELIGIBILITY REQUIREMENTS FOR PARTICIPATION IN
CERTAIN GRANT PROGRAM; AUTHORIZING THE STATE
DEPARTMENT OF AGRICULTURE TO ESTABLISH CRITERIA TO
RATE AND PRIORITIZE APPLICATIONS FOR CERTAIN
FUNDING REQUESTS; STATING CRITERIA TO BE INCLUDED;
MODIFYING CERTAIN CONTRACT AUTHORIZATIONS;
INCLUDING CERTAIN SERVICES AND RURAL FIRE
COORDINATORS WITHIN RISK MANAGEMENT; REPEALING
SECTIONS 15 AND 16 OF CHAPTER 377, O.S.L. 1989,
WHICH RELATE TO CRITERIA FOR APPLICATIONS BY RURAL
FIRE DISTRICTS AND AUTHORIZATION TO ADMINISTER
CERTAIN PROGRAMS; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 19 O.S. 1991, Section 901.56, is amended to read as follows:

Section 901.56 A. The provisions of this section shall become effective when funds are made available for such purpose. Upon the availability of such funds, the State Department of Agriculture shall notify the coordinator of such available funds.

B. For the purposes of this section "coordinator" means the rural fire coordinator in each rural fire protection coordination district as defined in Section 901.61 of this title.

C. Upon notification of the State Department of Agriculture pursuant to subsection A of this section on or before the last day of June of each year that funds are available for such purpose, the district coordinators shall consider and determine the relative needs of participants for monies in the Rural Fire Protection Program Fund. Participants shall include incorporated cities under ten thousand (10,000) population according to the latest Federal Decennial Census, towns, and legally formed rural fire departments. Based upon the information available to him, the coordinator shall certify to the Commissioner of Agriculture the names of the incorporated cities, towns, and legally formed rural fire departments which he determines are in need of financial assistance from the Rural Fire Protection Program and the amount required by each in accordance with the provisions of this section. In making this determination and certification, the coordinator shall consider the intent and purpose of the Rural Fire Protection Program Fund Act. No incorporated city, town or legally formed rural fire department shall receive monies distributed from the Rural Fire Protection Program Fund merely for the purpose of accumulation when such monies are not required to accomplish the purposes of this section.

D. In making such determination of needs, the coordinator shall first determine that each fire department to be certified has been duly formed under the appropriate state statutes.

E. On or before the last day of August of each year, the State Department of Agriculture shall distribute the monies in the Rural Fire Protection Program Fund in the manner provided by law.

F. Any amount so distributed from the Rural Fire Protection Program Fund to any eligible participant shall be expended only for the maintenance of its fire department, the purchase, construction, maintenance, repair and operation of its fire stations, fire apparatus and equipment, the purchase, rental, installation or maintenance of fire hydrants, the payment of insurance premiums upon fire stations, fire apparatus and equipment, and insurance premiums for injuries or death of fire fighters, as otherwise provided by law. Provided, however, that no monies shall be expended from the fund for any purpose relating to the water supply systems of any participant, nor for the improvement or construction of such systems nor for any other appurtenances relating to the distribution or use of such water supply system. Monies so distributed from the Rural Fire Protection Program Fund to any eligible participant may also be expended, in an amount not to exceed ten percent (10%) of the allocated funds or the sum of One Thousand Dollars (\$1,000.00) in the aggregate during any period of one (1) year, whichever is larger, for the expense of any fire fighters attending a certified fire school.

G. No amount so distributed from the Rural Fire Protection Program Fund to any eligible participant shall be expended or obligated for the purchase of land or the construction of buildings for fire stations unless all obligations previously incurred for such purposes and to be paid from monies distributed from the Rural Fire Protection Program Fund by such eligible participant have been fully paid and satisfied. No monies from the fund shall be expended or obligated for the construction of buildings for fire stations

unless the participant proposing to expend or obligate monies distributed from the Rural Fire Protection Program Fund for that purpose holds fee simple title, not encumbered by any lien, or holds a lease for a period of not less than ten (10) years, with provisions for renewal of the lease annually, to the land on which it proposes to construct any such building. Provided, however, that this provision shall not prohibit construction or location of a fire station on land donated in whole or part to the participant for the purpose, and use of Rural Fire Protection Program Fund monies for such construction or location, where the donor has reserved right or reversion of such land under stated conditions, if such use be appropriate and reasonable.

H. Amounts so distributed from the Rural Fire Protection Program Fund to any eligible participant shall be expended under the direction of the chief of the fire department upon duly executed vouchers approved as required by law. In no event shall any such monies to be expended for any purpose which does not relate to the permitted purposes specifically stated in this section.

SECTION 2. AMENDATORY 19 O.S. 1991, Section 901.57, is amended to read as follows:

Section 901.57 A. When funds are made available for such purpose, the State Department of Agriculture shall administer grants from any monies which may be available for the purpose of the improvement of fire protection in rural areas of the State of Oklahoma, to the end that the hazard of loss by fire and fire insurance rates may be reduced and the public safety thereby promoted. Any such monies shall be distributed in the manner provided by law.

B. The State Department of Agriculture is authorized to allocate such monies obtained pursuant to subsection A of this section to eligible entities on a matching basis and such matching requirements may be fulfilled either in cash or in-kind. In addition, the State Department of Agriculture is authorized to establish preferential matching requirements for eligible entities which have Insurance Service Organization rates of ten (10) or which have other critical circumstances and needs which are determined by the State Department of Agriculture to justify preferential matching requirements.

C. 1. The State Department of Agriculture shall in writing notify the Rural Fire Protection Coordination Districts of any available grant monies by August 1st of each year.

2. Each Rural Fire Protection Coordination District desiring to obtain such grant monies for improvement of fire protection within such district shall submit such request to the Department, in such form and in such manner as required by the Department, by September 1, of each year.

3. The Forestry Division shall submit the final list of grantees and their approved amounts prior to the October meeting of the Board of Agriculture for consideration.

4. By October 1 of each year, the Department shall make a determination on the allocation of such monies to the Rural Fire Protection Coordination Districts.

5. Upon approval, the Forestry Division shall distribute the forms required by law to all grantees to certify the grant. The prescribed form must be signed by the grantee and returned to the Forestry Division before the grant becomes official.

6. Expenditures made prior to the date of the grant award shall not be considered for reimbursement.

7. Fire departments shall submit copies of paid invoices, canceled checks or other proof of purchase, attached to the prescribed form when requesting reimbursement. No more than three (3) partial payment requests are permitted.

8. Fire departments shall keep complete and accurate records of grant expenditures and make this information available to the Forestry Division or the Coordinators on request.

9. Approved claims shall be submitted by the Forestry Division for payment. Checks shall be sent promptly to the fire department's contact person when received.

10. The Coordinators shall closely track the progress of all grantees in the assigned district to assure their completion by June 30. As of April 1, an assessment shall be made to determine the amount of grant funds which remain unobligated in each district, and therefore available to make additional grants within that district. The Coordinators shall use the original prioritized list of grant applications to make additional grants, and submit a list of additional grantees and amounts to the Forestry Division for processing through the April meeting of the Board of Agriculture for approval. These grants are still subject to the June 30 cutoff for obligating grant funds. The same procedures will be used as for the first round of grants.

11. Follow-up compliance audits shall be performed by the Coordinators and the Forestry Division of the State Department of Agriculture. Fire departments are required to cooperate fully during the audit.

D. In determining the amount of grant monies to be awarded to a Rural Fire Protection Coordination District pursuant to the provisions of this section, such district shall be eligible to receive an amount resulting from computing the number of fire departments with service area populations of less than ten thousand (10,000) persons in a Rural Fire Protection Coordination District divided by the total number of fire departments with service area populations of less than ten thousand (10,000) persons in this state multiplied by the total amount of the grant monies available to Rural Fire Protection Coordination Districts in the state.

E. In addition to any other criteria established by the State Department of Agriculture for receipt of grant monies for Rural Fire Protection Coordination Districts, the State Department of Agriculture, pursuant to the Administrative Procedures Act, Article I, Sections 250.3 through 308.2 and Article II, Sections 309 through 323 of Title 75 of the Oklahoma Statutes, shall establish criteria to rate and prioritize applications for funding such requests of the Rural Fire Protection Coordination Districts. Such criteria shall include, but not be limited to, consideration for: number of residents, businesses and square miles to be protected; fire runs per calendar year; annual sales and property tax collection; use of volunteers; written fire plan or standard operating procedures plan; fundraising; training; compliance with legal requirements; and workers' compensation and vehicle liability insurance coverage.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 85.12, is amended to read as follows:

Section 85.12 A. The provisions of this section shall not be construed to affect any law relating to fiscal or accounting procedure except such as may be directly in conflict herewith; and all claims, warrants and bonds shall be examined, inspected and approved as now provided by law.

B. The following acquisitions shall not be included within the purview of the Oklahoma Central Purchasing Act, Section 85.1 et seq. of this title:

1. Food and other products produced by state institutions and agencies;

2. Contracts for construction of new buildings and for the repair, maintenance or modernization of old buildings by state educational institutions included within The Oklahoma State System of Higher Education;

3. The printing or duplication of publications or forms of whatsoever kind or character by state agencies, which service is performed upon their own equipment, by their own employees;

4. Acquisitions by The Oklahoma State System of Higher Education on any institution or entity comprising the same insofar as such acquisitions relate to textbooks, laboratory supplies, instructional materials and specialized laboratory equipment;

5. Department of Transportation and Transportation Commission contractual services or right-of-way purchases. Contracts awarded pursuant to bids let by the Transportation Commission for the maintenance or construction of streets, roads, highways, bridges, or underpasses, or any other transportation facilities under the control of the Department of Transportation, the acquisitions of equipment or materials accruing to the Department of Transportation required in Federal-Aid contracts, and contracts for public service type announcements initiated by the Department of Transportation. Contractual services as used herein shall not include advertising or public relations services;

6. Utility services where rates therefor are regulated by a state or federal regulatory commission, or by city ordinance or by an Indian Tribal Council for use by the Department of Corrections only;

7. Purchases of products by Oklahoma Medical Center. The Commission for Human Services shall develop standards for the purchase of products and may elect to utilize Central Purchasing when appropriate. Such standards shall foster economy, short response time, and include appropriate safeguards to assure appropriate competition and economical and efficient purchasing;

8. Contracts for custom harvesting by the Department of Corrections for the Department or its institutions;

9. Contracts with private prison contractors which are subject to the contracting procedures of Section 561 of Title 57 of the Oklahoma Statutes;

10. Acquisitions of aircraft by agencies authorized by the Legislature to purchase aircraft;

11. Purchases by the Oklahoma Municipal Power Authority;

12. Grand River Dam Authority;

13. Purchases by rural water, sewer, gas or solid waste management districts created pursuant to Section 1324.1 et seq. of Title 82 of the Oklahoma Statutes;

14. Purchases by the Oklahoma Ordnance Works Authority or Midwestern Oklahoma Development Authority, except that the Oklahoma Ordnance Works Authority and the Midwestern Oklahoma Development Authority shall remain subject to the provisions of Section 85.32 of this title;

15. Contracts entered into by the Oklahoma Industrial Finance Authority for the services of an appraiser or for acquisition of insurance when it is determined by its Board of Directors that an emergency exists and for the services of legal counsel when approved by the Attorney General;

16. Contracts entered into by the State Department of Education for the purpose of implementing the provisions of Section 6-156 of Title 70 of the Oklahoma Statutes;

17. Expenditure of monies appropriated to the State Board of Education for the purpose of Local, State-supported Programs and State-supported Programs except monies appropriated for the Administrative and Support Functions of the State Department of Education;

18. Contracts entered into by the State Department of Vocational and Technical Education for the development, revision or updating of vocational curriculum materials;

19. Contracts entered into by the Oklahoma Center for the Advancement of Science and Technology for professional services;

20. Contracts entered into by the Oklahoma Department of Commerce pursuant to the provisions of Sections 8 through 13 of this act;

21. Purchases made by the Oklahoma Historical Society from monies used to administer the White Hair Memorial;

22. Purchases of products by the Forestry Service of the State Department of Agriculture as authorized by the federal General Services Administration through a General Services Administration contract or other federal contract if the item is not on current state contract or the terms of such federal contract are more favorable to the agency than the terms of a state contract for the same products; and

23. Purchases amounting to less than that requiring competitive bid pursuant to Section 85.4 of this title.

C. Notwithstanding the exclusions provided herein, any agency or common schools of Oklahoma, any municipality of the state, any rural fire protection district and county officers may, unless the contract with the state specifies otherwise, avail themselves of the provisions of the Oklahoma Central Purchasing contracts and the services of the Purchasing Director. Provided further, however, that any subdivision of government and any rural fire protection district of the state may designate the office of Oklahoma Central Purchasing as its agent for the purchase or procurement of any item or service contracted or available to the state.

D. Further, notwithstanding the exclusions provided herein, the purchasing policies and procedures of the Oklahoma Ordnance Works Authority and the Midwestern Oklahoma Development Authority shall be subject to approval by the Director of the Office of Public Affairs, and said Director shall make periodic audits of the purchasing policies and procedures of the Oklahoma Ordnance Works Authority and the Midwestern Oklahoma Development Authority to assure that said purchasing policies and procedures, as approved by him, are being followed.

SECTION 4. AMENDATORY 74 O.S. 1991, Section 85.34A, is amended to read as follows:

Section 85.34A A. The Risk Management Administrator, pursuant to the provisions of this section and Section 85.34 of this title, may obtain or provide insurance coverage for any vehicle, vessel, aircraft or building used for or in fire fighting or services provided by the districts, departments and services specified in subsection C of this section and may obtain or provide indemnity coverage for any board member, official, employee or volunteer of any entity specified in subsection C of this section for any errors and omissions or liability risks arising from the performance of their official duties pursuant to law.

B. The Risk Management Administrator is authorized to determine eligibility criteria for participation in the Risk Management Program by such districts, departments and services or for such member, officer, employee or volunteer. In addition, the Risk Management Administrator is authorized to establish equipment and safety standards for the vehicles, vessels, aircraft or buildings to be covered by the Risk Management Program.

C. The Risk Management Administrator may obtain or provide the insurance coverage authorized by subsection A of this section for:

1. fire protection districts organized and operated pursuant to the provisions of Sections 901.1 through 901.29 of Title 19 of the Oklahoma Statutes;

2. volunteer or full-time fire departments established pursuant to Section 592 of Title 18 of the Oklahoma Statutes;

3. municipal fire departments organized and operated pursuant to the provisions of Sections 29-101 through 29-108, and Sections 29-201 through 29-205 of Title 11 of the Oklahoma Statutes;

4. fire protection services established pursuant to the provisions of Section 351 of Title 19 of the Oklahoma Statutes; and
5. rural fire coordinators employed by substate planning districts acting pursuant to rural fire defense programs.

D. The governing authorities of such fire departments, fire protection districts and fire protection services shall be required to make payments for such insurance coverage as provided by Section 85.37 of Title 74 of the Oklahoma Statutes.

E. Requests for the insurance or indemnity coverage provided pursuant to the provisions of this section shall be submitted in writing to the Risk Management Administrator by the fire departments, fire protection districts or fire protection services specified in subsection C of this section. Those fire departments, fire protection districts or fire protection services meeting eligibility criteria shall be approved for participation in the Risk Management Program by the Risk Management Administrator if the member, officer, employee or volunteer, and the vehicles, vessels, aircraft and buildings used by districts, services or departments meet the equipment and safety standards and eligibility requirements established by the Risk Management Administrator.

F. Any insurance or indemnity coverage shall be obtained or provided solely from funds available in the shared risk pool authorized by Section 85.34b of this title. Any coverage limits shall be based on the liquidity of the shared risk pool resulting from the annual payments made pursuant to Section 85.37 of this title and any interest accrued thereon, after deduction of such sums as may be necessary to pay all overhead and administrative expenses associated with administering the pool.

G. Any limited indemnity coverage provided for errors and omissions pursuant to the provisions of this subsection shall only cover errors or omissions made by a board member, official, employee or volunteer of any entity specified in subsection C of this section occurring after the effective date of this act.

H. The State of Oklahoma is not liable, directly or indirectly, for the errors and omissions of any board member, official, employee or volunteer of any entity specified in subsection C of this section in the performance of his official duties pursuant to law. The State of Oklahoma is not liable, directly or indirectly, for the negligence of any entity specified in subsection C of this section.

I. In providing risk management services for any entity specified by subsection C of this section or any such board member, official, employee or volunteer of such entity, it is the intention of the Legislature to provide coverage solely to the extent of assets in the shared risk pool created by Section 85.34b of this title.

SECTION 5. REPEALER Sections 15 and 16, Chapter 377, O.S.L. 1989, are hereby repealed.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.