ENGROSSED SENATE
BILL NO. 795

By: Littlefield of the Senate

and

Hutchison of the House

An Act relating to state government; amending 74 O.S. 1991, Sections 85.34A, as amended by Section 4, Chapter 44, O.S.L. 1992, 85.34B and 85.34F (74 O.S. Supp. 1993, Section 85.34A), which relate to the Risk Management Participation Program; correcting citation; correcting name of state agency; deleting obsolete language; restricting contents of fund; modifying name of fund; restricting monies placed in certain fund; changing fund in which certain monies are deposited; creating Risk Management Fire Protection Revolving Fund; providing for monies to be placed in fund; providing for expenditure of certain monies for certain purposes; creating Risk Management Motor License Agent Revolving Fund; providing for monies to be placed in fund; providing for expenditure of certain monies for certain purposes; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 1991, Section 85.34A, as amended by Section 4, Chapter 44, O.S.L. 1992 (74 O.S. Supp. 1993, 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~~ this title.

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~~ pools authorized by Section ~~85.34b~~ 85.34B of this title and Section 4 of this act. 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~~ 4 of this ~~title~~ act.

SECTION 2. AMENDATORY 74 O.S. 1991, Section 85.34B, is amended to read as follows:

Section 85.34B There is hereby created in the State Treasury a revolving fund for the ~~Office of Public Affairs~~ Department of Central Services, to be designated the "Risk Management Participation Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies transferred thereto by an act of the Legislature and any fees collected by the ~~Office of Public Affairs in accordance with the provisions of Section 1 of Enrolled House Bill No. 1137 of the 1st Session of the 41st Oklahoma Legislature~~ Department of Central Services. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the ~~Office of Public Affairs~~ Department of Central Services for the purposes of the Comprehensive Professional Risk Management Program provided for in Section 85.34 of ~~Title 74 of the Oklahoma Statutes~~ this title, including the salaries and administrative expenses of support staff responsible for administering said fund. Expenditures from said fund shall be made upon warrants issued by the State Treasurer

against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 85.34F, is amended to read as follows:

Section 85.34F A. Upon written certification by the Director of the ~~Office of Public Affairs~~ Department of Central Services that errors and omissions liability insurance for motor license agents and their employees is not reasonably available in the private market at competitive rates, after taking into account the administrative costs associated with such insurance, the Risk Management Administrator pursuant to Section 85.34 of Title 74 of the Oklahoma Statutes may obtain or provide limited indemnity coverage for motor license agents and the employees who are employed by such agents for any errors and omissions liability risks arising from the performance of their official duties pursuant to law. Any such certification by the Director of the ~~Office of Public Affairs~~ Department of Central Services shall be effective for a period of two (2) years. Any such limited indemnity coverage shall be obtained or provided solely from funds available in the shared risk pool authorized by this section and subject to the limitations set out herein. The Risk Management Administrator shall establish liability limits for such errors and omissions coverage on an annual basis. Any such limits shall be based on the liquidity of the shared risk pool resulting from the annual payments made pursuant to subsection C of this section 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.

B. The Risk Management Administrator is authorized to determine eligibility criteria for participation in the Risk Management Program for such motor license agents and employees of such agent. 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 motor license agent or any employee of such agent occurring after the effective date of this act.

C. All motor license agents shall be required to make annual payments of Twenty Dollars ($20.00) per motor license agent and Twenty Dollars ($20.00) per employee of the motor license agent for such limited indemnity coverage. The Risk Management Administrator is authorized to assess an additional payment per year, not to exceed Twenty Dollars ($20.00) per motor license agent and per employee of such agent, if the shared risk pool resulting from the payment of the fees made pursuant to this subsection is not adequate to cover any liability incurred.

D. Requests for the limited indemnity coverage provided pursuant to the provisions of this section shall be submitted in writing to the Risk Management Administrator by the motor license agents.

E. All fees collected in accordance with the provisions of this section shall be deposited in the Risk Management ~~Participation~~ Motor License Agent Revolving Fund.

F. In providing risk management services for any motor license agent or employee of such agent, it is the intention of the Legislature to provide limited indemnification of motor license agents or employees of such agents for errors and omissions, solely to the extent of assets in the shared risk pool created by this section. The State of Oklahoma is not liable, directly or indirectly, for the errors and omissions of any motor license agent or any employee of such agent in the performance of his official duties pursuant to law. The Risk Management Administrator shall determine the extent of indemnification for losses incurred by any such motor license agent or employee of such agent based upon the liquidity of the shared risk pool.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 85.34G of Title 74, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Department of Central Services, to be designated the "Risk Management Fire Protection Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any fees collected by the Department of Central Services in accordance with the provisions of Section 84.34A of Title 74 of the Oklahoma Statutes. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department of Central Services for the purposes of the Comprehensive Professional Risk Management Program provided for in Section 85.34 of Title 74 of the Oklahoma Statutes, including the salaries and administrative expenses of support staff responsible for administering said fund. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 85.34H of Title 74, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Department of Central Services, to be designated the "Risk Management Motor License Agent Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies transferred thereto by an act of the Legislature and any fees collected by the Department of Central Services in accordance with the provisions of Section 85.34F of Title 74 of the Oklahoma Statutes. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department of Central Services for the purposes of

the Comprehensive Risk Management Program provided for in Section 85.34 of Title 74 of the Oklahoma Statutes, including the salaries and administrative expenses of support staff responsible for administering said fund. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 6. This act shall become effective July 1, 1994.

SECTION 7. 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.

Passed the Senate the 9th day of March, 1994.

President of the Senate

Passed the House of Representatives the ____ day of _____, 1994.

Speaker of the House of Representatives