

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1648

By: Caldwell

AS INTRODUCED

An Act relating to political subdivisions; amending 11 O.S. 1991, Sections 10-116 and 11-116, which relate to municipalities; amending 51 O.S. 1991, Sections 167, 168 and 169, which relate to insurance; requiring purchase of certain insurance made by competitive bid; requiring counties and school districts to purchase certain insurance by competitive bid; providing exceptions; making certain offers to pay or payment of certain remunerations for certain endorsements unlawful; providing for violations; providing exceptions; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 10-116, is amended to read as follows:

Section 10-116. A. The city manager shall contract for, purchase, or issue purchase authorizations for all supplies, public liability or hazard insurance, materials, and equipment for offices, departments, and agencies of the city government, subject to any regulations which the council may prescribe. Every contract or

purchase exceeding an amount to be established by the council shall require the prior approval of the council. The city manager may also sell or transfer to or between offices, departments, and agencies surplus or obsolete supplies, materials, and equipment, subject to regulations the council may prescribe.

B. The council may prescribe requirements and procedures for competitive bidding. Notice and opportunity for competitive bidding shall be given before a purchase or contract for such insurance, supplies, materials, or equipment is made, and before a sale of any surplus or obsolete supplies, materials, or equipment is made, in accordance with regulations the council may prescribe. The council shall not exempt a particular contract, purchase, or sale from the requirement of competitive bidding.

C. The council may transfer some or all of the power granted to the city manager pursuant to the provisions of this section to an employee appointed by and subordinate to the city manager.

SECTION 2. AMENDATORY 11 O.S. 1991, Section 11-116, is amended to read as follows:

Section 11-116. A. The mayor, subject to any regulations which the council may prescribe, shall contract for, purchase, or issue purchase authorizations for all public liability or hazard insurance, supplies, materials and equipment for offices, departments and agencies of the city government. Every contract or purchase exceeding an amount to be established by ordinance shall require the prior approval of the council. The mayor may also sell or transfer to or between offices, departments and agencies, surplus or obsolete supplies, materials and equipment, subject to regulations as the council may prescribe.

B. The council by ordinance may prescribe requirements and procedures for competitive bidding. Notice and opportunity for competitive bidding, in accordance with regulations as the council may prescribe, shall then be given before a purchase or contract for

such insurance, supplies, materials or equipment is made. The council shall not exempt a particular contract, purchase or sale from the requirement of competitive bidding.

C. The council by ordinance may transfer some or all of the power granted to the mayor by this section to an officer appointed by and subordinate to the mayor.

SECTION 3. AMENDATORY 51 O.S. 1991, Section 167, is amended to read as follows:

Section 167. A. The governing body of any municipality may:

1. Insure the municipality against all or any part of any liability it may incur for death, injury or disability of any person or for damage to property, either real or personal;

2. Insure any employee of the municipality against all or any part of his liability for injury or damage resulting from an act or omission in the scope of employment;

3. Insure against the expense of defending a claim against the municipality or its employee, whether or not liability exists on such claim; or

4. Insure the municipality or its employee against any loss, damage or liability as defined by Sections 702 through 708 of Title 36 of the Oklahoma Statutes, or other forms of insurance provided for in Title 36 of the Oklahoma Statutes.

The cost or premium of any such insurance is a proper expenditure of the municipality.

As used in this subsection, "employee" means any person who has acted in behalf of a municipality, whether that person is acting on a permanent or temporary basis with or without being compensated or on a full-time or part-time basis. Employee also includes all elected or appointed officers, members of governing bodies of a municipality, and persons appointed, and other persons designated by a municipality to act in its behalf.

B. Any insurance authorized by law to be purchased, obtained or provided by a municipality may be provided by:

1. Self-insurance, which may be, but is not required to be, funded by appropriations to establish or maintain reserves for self-insurance purposes. Any self-insurance reserve fund shall be nonfiscal and shall not be considered in computing any levy when the municipality makes its annual estimate for needed appropriations;

2. Insurance in any insurer authorized to transact insurance in this state;

3. Insurance secured in accordance with any other method provided by law; or

4. Any combination of insurance authorized by this section.

C. Two or more municipalities or public agencies, by interlocal agreement made pursuant to Sections 1001 et seq. of Title 74 of the Oklahoma Statutes, may provide insurance for any purpose by any one or more of the methods specified in this section. The pooling of self-insured reserves, claims or losses among governments as authorized in this act shall not be construed to be transacting insurance nor otherwise subject to the provisions of the laws of this state regulating insurance or insurance companies. Two or more municipalities may also be insured under a master policy or contract of insurance. Premium costs may be set individually for each municipality or apportioned among participating municipalities as provided by the master policy or contract.

D. Except for municipalities electing to self-insure, the governing board of any municipality shall use competitive bidding procedures for the purchase of any public liability or hazard insurance policy for the municipality.

SECTION 4. AMENDATORY 51 O.S. 1991, Section 169, is amended to read as follows:

Section 169. A. The governing body of any county may:

1. Insure the county against all or any part of any liability it may incur for death, injury or disability of any person or for damage to property, either real or personal;

2. Insure any employee of the county against all or any part of his liability for injury or damage resulting from an act or omission in the scope of employment;

3. Insure against the expense of defending a claim against the county or its employee, whether or not liability exists on such claim; or

4. Insure the county or its employee against any loss, damage or liability as defined by Sections 702 through 708 of Title 36 of the Oklahoma Statutes, or other forms of insurance provided for in Title 36 of the Oklahoma Statutes.

The cost or premium of any such insurance is a proper expenditure of the county.

As used in this subsection, "employee" means any person who has acted in behalf of a county, whether that person is acting on a permanent or temporary basis with or without being compensated or on a full-time or part-time basis. Employee also includes all elected or appointed officers, members of governing bodies of a county, and persons appointed, and other persons designated by a county to act in its behalf.

B. Any insurance authorized by law to be purchased, obtained or provided by a county may be provided by:

1. Self-insurance, which may be, but is not required to be, funded by appropriations to establish or maintain reserves for self-insurance purposes. Any self-insurance reserve fund shall be nonfiscal and shall not be considered in computing any levy when the county makes its annual estimate for needed appropriations;

2. Insurance in any insurer authorized to transact insurance in this state;

3. Insurance secured in accordance with any other method provided by law; or

4. Any combination of insurance authorized by this section.

C. Two or more counties or public agencies, by interlocal agreement made pursuant to Sections 1001 et seq. of Title 74 of the Oklahoma Statutes, may provide insurance for any purpose by any one or more of the methods specified in this section. The pooling of self-insured reserves, claims or losses among governments as authorized in this act shall not be construed to be transacting insurance nor otherwise subject to the provisions of the laws of this state regulating insurance or insurance companies. Two or more counties may also be insured under a master policy or contract of insurance. Premium costs may be set individually for each county or apportioned among participating counties as provided by the master policy or contract.

D. Except for any county which self-insures, the board of county commissioners or the county purchasing agent, as the case may be, of each county in this state shall use competitive bidding procedures for the purchase of any public liability or hazard insurance policy for the county.

SECTION 5. AMENDATORY 51 O.S. 1991, Section 168, is amended to read as follows:

Section 168. A. The board of education of any school district may:

1. Insure the school district against all or any part of any liability it may incur for death, injury or disability of any person, or for damage to property, either real or personal;

2. Insure any employee of the school district against all or any part of his liability for injury or damage resulting from an act or omission in the scope of employment;

3. Insure against the expense of defending a claim against the school district or its employee, whether or not liability exists on such claim; or

4. Insure the school district or its employee against any loss, damage or liability as defined by Sections 702 through 708 of Title 36 of the Oklahoma Statutes, or other forms of insurance provided for in Title 36 of the Oklahoma Statutes.

The cost or premium of any such insurance is a proper expenditure of the school district.

As used in this subsection, "employee" means any person who has acted in behalf of a school district, whether that person is acting on a permanent or temporary basis with or without being compensated or on a full-time or part-time basis. Employee also includes all elected or appointed officers, members of governing bodies of a school district, and persons appointed, and other persons designated by a school district to act in its behalf.

B. Any insurance authorized by law to be purchased, obtained or provided by a school district may be provided by:

1. Self-insurance, which may be, but is not required to be, funded by appropriations to establish or maintain reserves for self-insurance purposes. Any self-insurance reserve fund shall be nonfiscal and shall not be considered in computing any levy when the school district makes its annual estimate for needed appropriations;

2. Insurance in any insurer authorized to transact insurance in this state;

3. Insurance secured in accordance with any other method provided by law; or

4. Any combination of insurance authorized by this section.

C. Two or more school districts or public agencies, by interlocal agreement made pursuant to Sections 1001 et seq. of Title 74 of the Oklahoma Statutes, may provide insurance for any purpose by any one or more of the methods specified in this section. The

pooling of self-insured reserves, claims or losses among governments as authorized in this section shall not be construed to be transacting insurance nor otherwise subject to the provisions of the laws of this state regulating insurance or insurance companies. Two or more school districts may also be insured under a master policy or contract of insurance. Premium costs may be set individually for each school district or apportioned among participating school districts as provided by the master policy or contract.

D. Except for school districts which self-insure, the board of education of any school district in this state shall use competitive bidding procedures for the purchase of any public liability or hazard insurance policy for the school district.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1204.1 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. No insurer, agent, broker, solicitor, carrier, trade association or any other insurance provider shall offer to pay or pay any remuneration or inducement directly or indirectly, overtly or covertly, in cash or in kind to any person, firm, association, partnership or corporation for publicly or privately endorsing such insurer, agent, broker, solicitor, carrier, trade association or other insurance provider.

B. This section shall not be construed to prohibit remuneration for advertising, marketing or other services that are provided for the purpose of securing or soliciting business provided the remuneration is set in advance, is consistent with the fair market value of the services, and is not based on the volume or value of any referrals or business otherwise generated between the parties.

C. Any person violating the provisions of this section, upon conviction thereof, shall be deemed to have engaged in unfair methods of competition and unfair or deceptive acts or practices in

the business of insurance pursuant to Section 1204 of Title 36 of the Oklahoma Statutes.

SECTION 7. This act shall become effective September 1, 1993.

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