ENGROSSED HOUSE
BILL NO. 1265

By: Leist, Glover and Holt of the House

and

Shurden of the Senate

(state government - amending 74 O.S., Section 85.34 - risk management - effective date - emergency)

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

SECTION 1. AMENDATORY 74 O.S. 1991, Section 85.34, as last amended by Section 3, Chapter 329, O.S.L. 1994 (74 O.S. Supp. 1994, Section 85.34), is amended to read as follows:

Section 85.34 A. The Department of Central Services is hereby directed to establish for all state agencies, whether or not subject to the Central Purchasing Act, and for such other entities as provided by law a comprehensive professional risk management program which shall:

1. Identify and evaluate all risks for state agencies and such other entities as provided by law;

2. Eliminate, reduce, or minimize all risks through a continuous effective loss-prevention and loss-control program;

3. Transfer risks if it is economically advantageous to the state to do so, by acquiring commercial insurance, or by contractual pass-off of liability, or by other means;

4. Consolidate and administer all plans and programs pertaining to risk management including self-insurance programs, except Workers' Compensation Insurance and State Employees Group Insurance;

5. Determine feasibility of self-insurance programs;

6. Establish, if feasible, such self-insurance programs. Each self-insurance program so established shall be fully self-supporting and not dependent upon payments for insurance coverage under other programs to remain financially and actuarially sound;

7. Require payment by agencies for insurance provided by the risk management program;

8. When requested by a state retirement system, the State Insurance Fund or the State and Education Employees Group Insurance Board, assist the state retirement system, the Fund or the Board in obtaining indemnity insurance authorized by law or when requested by the Oklahoma State Regents for Higher Education, assist trust funds for which the State Regents serve as trustees in obtaining indemnity insurance authorized by law;

9. Assist any state agency and any officers, employees, and members thereof, charged with any type of licensing authority in obtaining indemnity insurance for liability for judgments based on the licensing authority rendered by any court pursuant to federal law; and

10. When requested by a public trust established pursuant to Title 60 of the Oklahoma Statutes of which the State of Oklahoma is the beneficiary, obtain or provide or assist such public trust in obtaining indemnity insurance authorized by law or trust indenture covering any board member, trustee, official, officer, employee or volunteer for any errors and omissions or liability risks arising from the performance of their official duties pursuant to law or trust indenture.

B. The Director of the Department of Central Services is authorized to hire or contract for the services of a Risk Management

Administrator who shall supervise all aspects of the Comprehensive Professional Risk Management Program established pursuant to this section. If appointed by the Director as a state employee, the Risk Management Administrator shall be in the unclassified service.

C. The Risk Management Administrator shall also be responsible for the continuing evaluation of the insurance coverage needed by the state and the insurance coverage in force. All state agencies shall submit to the Risk Management Administrator any information which the Risk Management Administrator deems necessary to perform this duty.

D. The school districts of this state are authorized to request the Risk Management Administrator to supervise the purchase of insurance coverage for the school districts.

E. Prior to purchase of property and casualty insurance by any state agency, details of the proposed purchase shall be submitted to the Risk Management Administrator for approval or disapproval.

F. Any state agency, board, commission, or department, and any officers, employees, and members thereof, charged with any type of licensing authority may obtain indemnity insurance for liability for judgments based on any action taken pursuant to the licensing authority rendered by any court pursuant to federal law. Prior to purchase of said insurance, details of the proposed purchase shall be submitted to the Risk Management Administrator for approval or disapproval.

G. The Director of the Department of Central Services shall promulgate rules necessary to effect the provisions of this risk management program.

H. 1. Any community action agency established pursuant to Sections 5035 through 5040 of this title or motor license agent when distributing food stamps and otherwise participating in the food stamp program pursuant to a contract entered into pursuant to Section 241 of Title 56 of the Oklahoma Statutes shall be eligible

to participate in the comprehensive professional risk management program established pursuant to this section.

2. The Risk Management Administrator shall obtain or provide for insurance coverage for a community action agency or motor license agent or bonding for employees of a community action agency or motor license agent for risks incurred as a result of distribution of food stamps or coupons including but not limited to losses of food stamps by theft or embezzlement. Any liability insurance coverage obtained or provided shall include expenses for legal services obtained or provided by the Risk Management Administrator.

3. The Risk Management Administrator shall determine criteria for participation in the risk management program by such community action agencies or motor license agents. In addition, the Risk Management Administrator may require each community action agency or motor license agent to provide adequate qualified personnel, and suitable facilities for storing and issuing food stamps or coupons, and comply with such other standards that are necessary for the protection of the food stamps or coupons when in the care, custody and control of the community action agencies or motor license agents.

4. To receive coverage pursuant to this section, a community action agency or motor license agent shall be required to make payments for any insurance coverage and shall otherwise comply with the provisions of this section and rules promulgated by the Department pursuant to the provisions of this section.

5. Requests for the insurance coverage provided pursuant to the provisions of this section shall be submitted in writing to the Risk Management Administrator by the community action agencies or motor license agents.

I. The Risk Management Administrator may provide or obtain for any state agency, any public trust with the state as a beneficiary

and any director, officer, employee and member thereof, indemnity insurance for liability for loss, including judgments, awards, settlements, costs and legal expenses, resulting from violations of rights or privileges secured by the Constitution or laws of the United States which occur while a director, officer, employee or member is acting within the scope of his service to the State of Oklahoma. Such indemnity insurance shall be for coverage in excess of the limits on liability established by the Governmental Tort Claims Act but shall not limit or waive any immunities now or hereafter available to the State of Oklahoma or any state agency, any public trust with the state as a beneficiary, or any director, officer, employee or member thereof, including, but not limited to, any immunities under the Eleventh Amendment to the Constitution of the United States, state sovereign immunity, and any absolute or qualified immunity held by any director, officer, employee or member.

J. Conservation districts, established pursuant to Article III of Title 27a of the Oklahoma Statutes shall be eligible to participate in the comprehensive professional risk management program established pursuant to this section.

SECTION 2. This act shall become effective July 1, 1995.

SECTION 3. 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 House of Representatives the 9th day of March, 1995.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1995.

President of the Senate