

ENROLLED HOUSE
BILL NO. 1265

By: Leist, Glover and Holt
of the House

and

Shurden of the Senate

An Act relating to state government; authorizing the Risk Management Administrator to obtain or provide certain insurance coverage for the liability incurred by certain conservation districts; specifying type of insurance coverage; providing for establishment of eligibility criteria and safety standards; requiring payments and deposits; authorizing certain expenses; restricting use of funds in accounts; providing for coverage limits; specifying certain limits; providing that the State of Oklahoma is not liable for any liability incurred by conservation districts; providing that insurance coverage include legal services; creating Risk Management Political Subdivision Participation Revolving Fund; providing for certain deposits and certain expenditures; creating certain account within the Risk Management Political Subdivision Participation Revolving Fund; making fund not subject to fiscal year limitations; specifying what the accounts consist of; prohibiting certain actions; making monies non-state monies; restricting expenditures; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. 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:

A. The Risk Management Administrator may obtain or provide the insurance coverage specified by this section for conservation districts established pursuant to Article III of Title 27A of the Oklahoma Statutes. Pursuant to the provisions of this section and Section 85.34 of Title 74 of the Oklahoma Statutes, the Risk Management Administrator may obtain or provide:

1. Property and casualty insurance for any vehicle, vessel or aircraft owned or operated by the conservation districts or services provided by conservation districts;

2. Indemnity coverage for any board member, official, employee or volunteer of any conservation district for any errors and omissions or liability risks arising from the performance of their official duties pursuant to law. 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 a conservation district occurring after the effective date of this section;

3. Property and casualty insurance coverage for any building owned or leased by the conservation districts. If a conservation district is housed in a building with any department or unit of local governmental entities, the Risk Management Administrator may also obtain or provide building or structure insurance coverage for such department or unit in the building;

4. Property and casualty insurance for any liability incurred by a conservation district as a result of the participation of the conservation district in the operation and maintenance of flood control structures or any liability occurring as a result of the participation of the conservation districts in federal or state programs authorized pursuant to Article III of Title 27A of the Oklahoma Statutes; or

5. 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 conservation district. 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 conservation district, 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.

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

C. 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 conservation district. Those conservation districts 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 the conservation districts meet the equipment and safety standards and eligibility requirements established by the Risk Management Administrator. The Risk Management Administrator shall establish liability limits for the insurance coverage authorized by this section on an annual basis. Any such limits shall be based on the liquidity of the shared risk pool in the Conservation District Protection Account resulting from the annual payments made pursuant to Section 85.37 of Title 74 of the Oklahoma Statutes 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.

D. The conservation districts shall be required to make payments for such insurance coverage. All fees collected in accordance with the provisions of this section shall be deposited in the Conservation District Protection Account within the Risk Management Political Subdivision Participation Revolving Fund.

E. 1. Any insurance or indemnity coverage shall be provided solely from funds in the Conservation District Protection Account and to the extent of assets available in the shared risk pool established pursuant to the provisions of Section 2 of this act. The Risk Management Administrator shall determine the extent of indemnification for losses incurred by any conservation district based upon the liquidity of the shared risk pool in the Conservation District Protection Account.

2. The State of Oklahoma is not liable, directly or indirectly, for any liability incurred by any board member, official, employee or volunteer of any conservation district in the performance of his official duties pursuant to law. In addition, the State of Oklahoma is not liable, directly or indirectly, for any liability incurred by a conservation district established pursuant to Article III of Title 27A of the Oklahoma Statutes.

F. Any insurance coverage obtained or provided pursuant to the provisions of this section shall include expenses for legal services obtained or provided by the Risk Management Administrator.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 85.36A of Title 74, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created in the State Treasury a revolving fund for the Department of Central Services, to be designated the "Risk Management Political Subdivision 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 Department of Central Services and deposited pursuant to law. All monies accruing to the credit of said fund shall be expended by the Department of Central Services for the specific purposes specified by this section and the salaries and administrative expenses of support staff responsible for administering the fund. Expenditures from the 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.

B. Within the Risk Management Political Subdivision Participation Revolving Fund, there is hereby created the Conservation District Protection Account. The account shall be set apart as a separate, permanent and perpetual account not subject to fiscal year limitations and shall consist of:

1. All fees and other monies received pursuant to Section 1 of the act; and

2. Interest attributable to investment of monies in the account.

C. 1. The monies deposited in the Risk Management Political Subdivision Participation Revolving Fund shall at no time become monies of the state and shall not become part of the general budget of the Department of Central Services or any other state agency. Except as otherwise authorized by this subsection, no monies from the Risk Management Political Subdivision Participation Revolving Fund shall be transferred for any purpose to any other state agency or any account of the Department of Central Services or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.

2. Monies in the Risk Management Political Subdivision Participation Revolving Fund shall only be expended for:

- a. the purposes specified by Section 1 of this act, and
- b. costs incurred by the Comprehensive Professional Risk Management Program for the administration of Section 1 of this act.

D. Any costs incurred by the Department of Central Services pursuant to the provisions of Section 1 of this act shall not exceed the actual expenditures made by the Department of Central Services to implement the provisions of Section 1 of this act.

E. Payment of claims from the Risk Management Political Subdivision Participation Revolving Fund shall not become or be construed to be an obligation of this state. No claims submitted for reimbursement or payment from the fund shall be paid with state monies.

SECTION 3. This act shall become effective July 1, 1995.

SECTION 4. 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 24th day of May, 1995.

Speaker of the House of
Representatives

Passed the Senate the 25th day of May, 1995.

President of the Senate