

THE HOUSE OF REPRESENTATIVES
Tuesday, April 8, 2008

Committee Substitute for
ENGROSSED
Senate Bill No. 1189

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 1189 - By:
ALDRIDGE of the Senate and BLACKWELL of the House.

An Act relating to government; amending 74 O.S. 2001, Section 85.58A, as last amended by Section 6, Chapter 483, O.S.L. 2002 (74 O.S. Supp. 2007, Section 85.58A), which relates to risk management; updating title; providing example; allowing Risk Management Administrator to act as agent; creating certain petty cash fund; providing purpose of fund; setting fund limit; amending 80 O.S. 2001, Section 34.6, as amended by Section 14, Chapter 372, O.S.L. 2003 (80 O.S. Supp. 2007, Section 34.6), which relates to the State Surplus Property Revolving Fund; making fund a continuing fund; allowing for certain investment; allowing for limited expenditure of interest earned; providing for codification; and providing an effective date.

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

1 SECTION 1. AMENDATORY 74 O.S. 2001, Section 85.58A, as last amended by
2 Section 6, Chapter 483, O.S.L. 2002 (74 O.S. Supp. 2007, Section 85.58A), is amended to
3 read as follows:

4 Section 85.58A A. The Department of Central Services shall establish for all state
5 agencies, whether or not subject to The Central Purchasing Act, and other entities as
6 provided by law a comprehensive professional risk management program which shall:

- 1 1. Identify and evaluate risks of loss and exposures to loss to officers, employees
2 and properties;
- 3 2. Minimize risks through loss-prevention and loss-control programs;
- 4 3. Transfer risks, if economically advantageous to the state, by acquiring
5 commercial insurance, contractual pass through of liability, or by other means;
- 6 4. Consolidate and administer risk management plans and programs including self-
7 insurance programs, except Workers' Compensation Insurance and State Employees
8 Group Insurance;
- 9 5. Determine feasibility of and, if feasible, establish self-insurance programs,
10 considering whether a program may be self-supporting to remain financially and
11 actuarially sound;
- 12 6. Provide a system to allocate insurance and program costs to determine payment
13 for insurance coverage and program expenses provided by the Department of Central
14 Services;
- 15 7. When requested by a state retirement system, CompSource Oklahoma or the
16 State and Education Employees Group Insurance Board, assist in obtaining insurance
17 authorized by law. If requested by the Oklahoma State Regents for Higher Education,
18 assist trust funds for which the State Regents serve as trustees in obtaining insurance
19 authorized by law;
- 20 8. Assist state agencies and officers, employees, and members thereof, charged with
21 licensing authority, in obtaining insurance for liability for judgments, based on the
22 licensing authority, rendered by any court pursuant to federal law;

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

7 10. When requested by the Oklahoma State Regents for Higher Education, for the
8 purpose of insuring real property required pursuant to Section 4018 of Title 70 of the
9 Oklahoma Statutes, of which the Oklahoma State Regents for Higher Education is the
10 beneficiary, obtain, provide or assist the Oklahoma State Regents for Higher Education
11 in obtaining insurance for the real property pursuant to the provisions of this section.

12 B. The Director of Central Services may hire or contract for the services of a Risk
13 Management Administrator to supervise the Comprehensive Professional Risk
14 Management Program established pursuant to this section. If appointed by the Director
15 as a state employee, the Risk Management Administrator shall be in the unclassified
16 service.

17 C. The Risk Management Administrator shall evaluate insurance coverage needs
18 and in force for state agencies, whether or not subject to The Central Purchasing Act,
19 and other entities as provided by law. All entities shall submit to the Risk Management
20 Administrator all information which the Risk Management Administrator deems
21 necessary to perform this duty.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 D. The Risk Management Administrator in conjunction with the State Purchasing
2 Director under the authority of the Director of Central Services may negotiate insurance
3 coverage and insurance-related services contracts, including, but not limited to,
4 insurance brokerage and consulting services. The State Purchasing Director shall
5 ensure open processes for solicitation and qualification of insurance coverage and
6 services providers. The State Purchasing Director shall award contracts for insurance
7 coverage and services to the provider or providers which offer the best and final terms
8 and conditions. The State Purchasing Director may authorize the Risk Management
9 Administrator to bind for insurance coverage with providers.

10 E. The school districts of this state may request the Risk Management
11 Administrator to advise for the purchase of insurance coverage for the school districts.

12 F. A state agency, whether or not subject to The Central Purchasing Act, that
13 contemplates purchase of property and casualty insurance, shall provide details of the
14 proposed purchase to the Risk Management Administrator for approval or disapproval
15 prior to the purchase.

16 G. The Director of Central Services shall promulgate rules to effect the provisions
17 of the comprehensive professional risk management program.

18 H. 1. a. Any community action agency established pursuant to Sections 5035
19 through 5040 of this title may participate in the comprehensive
20 professional risk management program established pursuant to this
21 section for risks incurred as a result of operating a Head Start program
22 or providing transportation services to the public. The Risk

1 Management Administrator shall obtain or provide for insurance
2 coverage for such community action agencies or bonding for employees
3 of such community action agencies. Any liability insurance coverage
4 obtained or provided shall include expenses for administrative and
5 legal services obtained or provided by the Risk Management
6 Administrator.

7 b. The Risk Management Administrator shall determine criteria for
8 participation in the risk management program by such community
9 action agencies. In addition, the Risk Management Administrator may
10 require each such community action agency to:

- 11 (1) provide adequate qualified personnel and suitable facilities and
12 equipment for operating a Head Start program or providing
13 transportation services to the public, and
- 14 (2) comply with such standards as are necessary for the protection
15 of the clients it serves.

16 2. To receive coverage pursuant to this section, a community action agency shall
17 make payments for any insurance coverage and shall otherwise comply with the
18 provisions of this section and rules promulgated by the Department pursuant to the
19 provisions of this section.

20 3. Requests for the insurance coverage provided pursuant to the provisions of this
21 subsection shall be submitted in writing to the Risk Management Administrator by the
22 community action agencies.

1 I. The Risk Management Administrator may provide or obtain for any state agency,
2 public trust with the state as a beneficiary and a director, officer, employee or member
3 thereof, insurance for liability for loss, including judgments, awards, settlements, costs
4 and legal expenses, resulting from violations of rights or privileges secured by the
5 Constitution or laws of the United States of America which occur while a director, officer,
6 employee or member is acting within the scope of service to the State of Oklahoma. The
7 insurance shall be for coverage in excess of the limits on liability established by The
8 Governmental Tort Claims Act but shall not limit or waive any immunities now or
9 hereafter available to the State of Oklahoma or any state agency, any public trust with
10 the state as a beneficiary, or any director, officer, employee or member thereof, including,
11 but not limited to, any immunities under the Eleventh Amendment to the Constitution of
12 the United States, state sovereign immunity, and any absolute or qualified immunity
13 held by any director, officer, employee or member.

14 SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma
15 Statutes as Section 63.4 of Title 74, unless there is created a duplication in numbering,
16 reads as follows:

17 There is hereby created a petty cash fund for the Department of Central Services to
18 be used for the State Surplus Auctions in the Property Reutilization Division.

19 The amount of the State Surplus Auction petty cash fund shall not exceed Two
20 Hundred Fifty Dollars (\$250.00), and the initial amount shall be drawn by warrant from
21 the State Surplus Property Revolving Fund. The Director of State Finance is authorized

1 to prescribe forms, systems and procedures for the administration of the State Surplus
2 Auction petty cash fund.

3 SECTION 3. AMENDATORY 80 O.S. 2001, Section 34.6, as amended by
4 Section 14, Chapter 372, O.S.L. 2003 (80 O.S. Supp. 2007, Section 34.6), is amended to
5 read as follows:

6 Section 34.6 There is hereby created in the State Treasury a revolving fund to be
7 designated as the "State Surplus Property Revolving Fund" which shall consist of all
8 monies appropriated thereto by the Legislature and all monies received by the Surplus
9 Property Agent from state departments, boards, commissions, institutions, and agencies
10 and from counties, cities, and towns, and school districts and other authorized program
11 participants as a reimbursement to the state of monies spent in acquiring surplus
12 property for such entities, and for services to the entities. The State Surplus Property
13 Revolving Fund shall be a continuing fund, not subject to fiscal year limitations, and
14 shall be expended by the Surplus Property Agent, under the supervision of the Director
15 of ~~the Department of~~ Central Services, for any expense incurred in the handling,
16 transportation, warehousing, distribution of surplus property received by purchase or
17 donation, including the purchase of trucks and equipment, the salary of the Surplus
18 Property Agent and other employees' salaries, other necessary expenses incurred in
19 program administration and operation and expenses the Department of Central Services
20 incurs to support program operations. Expenditures shall be made from the fund on
21 claims signed by the ~~State~~ Surplus Property Agent and approved for payment by the
22 Director of State Finance. Excess funds above the operational needs may be invested in

1 any of the types of instruments in which the State Treasurer is authorized by law to
2 invest. Interest earned shall be retained by the State Surplus Property Revolving Fund,
3 and the funds may be expended by the Department of Central Services to acquire,
4 improve, or maintain state agency surplus property facilities.

5 SECTION 4. This act shall become effective November 1, 2008.

6 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT AND
7 TRANSPORTATION, dated 04-07-08 - DO PASS, As Amended.