

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 COMMITTEE SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 2886

6 By: Moore

7 COMMITTEE SUBSTITUTE

8 An Act relating to state government; amending 74 O.S.
9 2001, Section 85.58A, as last amended by Section 2,
10 Chapter 352, O.S.L. 2008 (74 O.S. Supp. 2009, Section
11 85.58A), which relates to Department of Central
12 Services risk management programs; authorizing
13 Department to assist state agencies in obtaining
14 workers' compensation quotes; and providing an
15 effective date.

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

17 SECTION 1. AMENDATORY 74 O.S. 2001, Section 85.58A, as
18 last amended by Section 2, Chapter 352, O.S.L. 2008 (74 O.S. Supp.
19 2009, Section 85.58A), is amended to read as follows:

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

24 1. Identify and evaluate risks of loss and exposures to loss to
officers, employees and properties;

- 1 2. Minimize risks through loss-prevention and loss-control
2 programs;
- 3 3. Transfer risks, if economically advantageous to the state,
4 by acquiring commercial insurance, contractual pass through of
5 liability, or by other means;
- 6 4. Consolidate and administer risk management plans and
7 programs including self-insurance programs, except Workers'
8 Compensation Insurance and State Employees Group Insurance; however,
9 the Risk Management Division of the Department of Central Services
10 may assist any state agency in obtaining quotes for Workers'
11 Compensation Insurance at the request of any state agency;
- 12 5. Determine feasibility of and, if feasible, establish self-
13 insurance programs, considering whether a program may be self-
14 supporting to remain financially and actuarially sound;
- 15 6. Provide a system to allocate insurance and program costs to
16 determine payment for insurance coverage and program expenses
17 provided by the Department of Central Services;
- 18 7. When requested by a state retirement system, CompSource
19 Oklahoma or the State and Education Employees Group Insurance Board,
20 assist in obtaining insurance authorized by law. If requested by
21 the Oklahoma State Regents for Higher Education, assist trust funds
22 for which the State Regents serve as trustees in obtaining insurance
23 authorized by law;

24

1 8. Assist state agencies and officers, employees, and members
2 thereof, charged with licensing authority, in obtaining insurance
3 for liability for judgments, based on the licensing authority,
4 rendered by any court pursuant to federal law;

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

13 10. When requested by the Oklahoma State Regents for Higher
14 Education, for the purpose of insuring real property required
15 pursuant to Section 4018 of Title 70 of the Oklahoma Statutes, of
16 which the Oklahoma State Regents for Higher Education is the
17 beneficiary, obtain, provide or assist the Oklahoma State Regents
18 for Higher Education in obtaining insurance for the real property
19 pursuant to the provisions of this section.

20 B. The Director of Central Services may hire or contract for
21 the services of a Risk Management Administrator to supervise the
22 Comprehensive Professional Risk Management Program established
23 pursuant to this section. If appointed by the Director as a state
24

1 employee, the Risk Management Administrator shall be in the
2 unclassified service.

3 C. The Risk Management Administrator shall evaluate insurance
4 coverage needs and in force for state agencies, whether or not
5 subject to The Central Purchasing Act, and other entities as
6 provided by law. All entities shall submit to the Risk Management
7 Administrator all information which the Risk Management
8 Administrator deems necessary to perform this duty.

9 D. The Risk Management Administrator in conjunction with the
10 State Purchasing Director under the authority of the Director of
11 Central Services may negotiate insurance coverage and insurance-
12 related services, including, but not limited to, insurance brokerage
13 and consulting services. The State Purchasing Director shall ensure
14 open processes for solicitation and qualification of insurance
15 coverage and services providers. The State Purchasing Director
16 shall award contracts for insurance coverage and services to the
17 provider or providers which offer the best and final terms and
18 conditions. The State Purchasing Director may authorize the Risk
19 Management Administrator to bind for insurance coverage with
20 providers.

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

24

1 F. A state agency, whether or not subject to The Central
2 Purchasing Act, that contemplates purchase of property and casualty
3 insurance, shall provide details of the proposed purchase to the
4 Risk Management Administrator for approval or disapproval prior to
5 the purchase.

6 G. The Director of Central Services shall promulgate rules to
7 effect the provisions of the comprehensive professional risk
8 management program.

9 H. 1. a. Any community action agency established pursuant to
10 Sections 5035 through 5040 of this title may
11 participate in the comprehensive professional risk
12 management program established pursuant to this
13 section for risks incurred as a result of operating a
14 Head Start program or providing transportation
15 services to the public. The Risk Management
16 Administrator shall obtain or provide for insurance
17 coverage for such community action agencies or bonding
18 for employees of such community action agencies. Any
19 liability insurance coverage obtained or provided
20 shall include expenses for administrative and legal
21 services obtained or provided by the Risk Management
22 Administrator.

23 b. The Risk Management Administrator shall determine
24 criteria for participation in the risk management

1 program by such community action agencies. In
2 addition, the Risk Management Administrator may
3 require each such community action agency to:

- 4 (1) provide adequate qualified personnel and suitable
5 facilities and equipment for operating a Head
6 Start program or providing transportation
7 services to the public, and
- 8 (2) comply with such standards as are necessary for
9 the protection of the clients it serves.

10 2. To receive coverage pursuant to this section, a community
11 action agency shall make payments for any insurance coverage and
12 shall otherwise comply with the provisions of this section and rules
13 promulgated by the Department pursuant to the provisions of this
14 section.

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

18 I. The Risk Management Administrator may provide or obtain for
19 any state agency, public trust with the state as a beneficiary and a
20 director, officer, employee or member thereof, insurance for
21 liability for loss, including judgments, awards, settlements, costs
22 and legal expenses, resulting from violations of rights or
23 privileges secured by the Constitution or laws of the United States
24 of America which occur while a director, officer, employee or member

1 is acting within the scope of service to the State of Oklahoma. The
2 insurance shall be for coverage in excess of the limits on liability
3 established by The Governmental Tort Claims Act but shall not limit
4 or waive any immunities now or hereafter available to the State of
5 Oklahoma or any state agency, any public trust with the state as a
6 beneficiary, or any director, officer, employee or member thereof,
7 including, but not limited to, any immunities under the Eleventh
8 Amendment to the Constitution of the United States, state sovereign
9 immunity, and any absolute or qualified immunity held by any
10 director, officer, employee or member.

11 SECTION 2. This act shall become effective November 1, 2010.

12

13 52-2-10001 LRB 02/23/10

14

15

16

17

18

19

20

21

22

23

24