

THE HOUSE OF REPRESENTATIVES  
Wednesday, February 24, 2010

Committee Substitute for  
House Bill No. 2886

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2886 - By: MOORE of the House.

An Act relating to state government; amending 74 O.S. 2001, Section 85.58A, as last amended by Section 2, Chapter 352, O.S.L. 2008 (74 O.S. Supp. 2009, Section 85.58A), which relates to Department of Central Services risk management programs; authorizing Department to assist state agencies in obtaining workers' compensation quotes; 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 2, Chapter 352, O.S.L. 2008 (74 O.S. Supp. 2009, 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:
- 7           1. Identify and evaluate risks of loss and exposures to loss to officers, employees  
8 and properties;
- 9           2. Minimize risks through loss-prevention and loss-control programs;
- 10          3. Transfer risks, if economically advantageous to the state, by acquiring  
11 commercial insurance, contractual pass through of liability, or by other means;

1 4. Consolidate and administer risk management plans and programs including self-  
2 insurance programs, except Workers' Compensation Insurance and State Employees  
3 Group Insurance; however, the Risk Management Division of the Department of Central  
4 Services may assist any state agency in obtaining quotes for Workers' Compensation  
5 Insurance at the request of any state agency;

6 5. Determine feasibility of and, if feasible, establish self-insurance programs,  
7 considering whether a program may be self-supporting to remain financially and  
8 actuarially sound;

9 6. Provide a system to allocate insurance and program costs to determine payment  
10 for insurance coverage and program expenses provided by the Department of Central  
11 Services;

12 7. When requested by a state retirement system, CompSource Oklahoma or the  
13 State and Education Employees Group Insurance Board, assist in obtaining insurance  
14 authorized by law. If requested by the Oklahoma State Regents for Higher Education,  
15 assist trust funds for which the State Regents serve as trustees in obtaining insurance  
16 authorized by law;

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

20 9. When requested by a public trust established pursuant to Title 60 of the  
21 Oklahoma Statutes of which the State of Oklahoma is the beneficiary, obtain, provide or  
22 assist the public trust in obtaining insurance authorized by law or trust indenture

1 covering any board member, trustee, official, officer, employee or volunteer for errors and  
2 omissions or liability risks arising from the performance of official duties pursuant to law  
3 or trust indenture; and

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

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

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

19 D. The Risk Management Administrator in conjunction with the State Purchasing  
20 Director under the authority of the Director of Central Services may negotiate insurance  
21 coverage and insurance-related services, including, but not limited to, insurance  
22 brokerage and consulting services. The State Purchasing Director shall ensure open

1 processes for solicitation and qualification of insurance coverage and services providers.  
2 The State Purchasing Director shall award contracts for insurance coverage and services  
3 to the provider or providers which offer the best and final terms and conditions. The  
4 State Purchasing Director may authorize the Risk Management Administrator to bind  
5 for insurance coverage with providers.

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

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

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

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

1 legal services obtained or provided by the Risk Management  
2 Administrator.

3 b. The Risk Management Administrator shall determine criteria for  
4 participation in the risk management program by such community  
5 action agencies. In addition, the Risk Management Administrator may  
6 require each such community action agency to:

7 (1) provide adequate qualified personnel and suitable facilities and  
8 equipment for operating a Head Start program or providing  
9 transportation services to the public, and

10 (2) comply with such standards as are necessary for the protection  
11 of the clients it serves.

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

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

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

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

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

11 COMMITTEE REPORT BY: COMMITTEE ON GOVERNMENT MODERNIZATION,  
12 dated 02-23-10 - DO PASS, As Amended.