

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2482

By: Moore

6 COMMITTEE SUBSTITUTE

7 An Act relating to state government; amending 74 O.S.
8 2011, Section 85.58A, which relates to state risk
9 management programs; specifying certain employers may
10 obtain workers' compensation insurance from third-
11 party vendors; specifying state agencies, boards and
12 commissions shall obtain workers' compensation
13 insurance through the Office of State Finance;
14 specifying duties of risk manager; 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. 2011, Section 85.58A, is
18 amended to read as follows:

19 Section 85.58A A. The Department of Central Services shall
20 establish for all state agencies, whether or not subject to The
21 Oklahoma Central Purchasing Act, and other entities as provided by
22 law a comprehensive professional risk management program which
23 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;
- 9 5. Determine feasibility of and, if feasible, establish self-
10 insurance programs, considering whether a program may be self-
11 supporting to remain financially and actuarially sound;
- 12 6. Provide a system to allocate insurance and program costs to
13 determine payment for insurance coverage and program expenses
14 provided by the Department of Central Services;
- 15 7. When requested by a state retirement system, CompSource
16 Oklahoma or the State and Education Employees Group Insurance Board,
17 assist in obtaining insurance authorized by law. If requested by
18 the Oklahoma State Regents for Higher Education, assist trust funds
19 for which the State Regents serve as trustees in obtaining insurance
20 authorized by law;
- 21 8. Assist state agencies and officers, employees, and members
22 thereof, charged with licensing authority, in obtaining insurance
23 for liability for judgments, based on the licensing authority,
24 rendered by any court pursuant to federal law;

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

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

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

22 C. The Risk Management Administrator shall evaluate insurance
23 coverage needs and in force for state agencies, whether or not
24 subject to The Oklahoma Central Purchasing Act, and other entities

1 as provided by law. All entities shall submit to the Risk
2 Management Administrator all information which the Risk Management
3 Administrator deems necessary to perform this duty.

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

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

19 F. A state agency, whether or not subject to The Oklahoma
20 Central Purchasing Act, that contemplates purchase of property and
21 casualty insurance, shall provide details of the proposed purchase
22 to the Risk Management Administrator for approval or disapproval
23 prior to the purchase.

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1 G. The Director of Central Services shall promulgate rules to
2 effect the provisions of the comprehensive professional risk
3 management program.

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

18 b. The Risk Management Administrator shall determine
19 criteria for participation in the risk management
20 program by such community action agencies. In
21 addition, the Risk Management Administrator may
22 require each such community action agency to:

23 (1) provide adequate qualified personnel and suitable
24 facilities and equipment for operating a Head

1 Start program or providing transportation
2 services to the public, and

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

5 2. To receive coverage pursuant to this section, a community
6 action agency shall make payments for any insurance coverage and
7 shall otherwise comply with the provisions of this section and rules
8 promulgated by the Department pursuant to the provisions of this
9 section.

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

13 I. The Risk Management Administrator may provide or obtain for
14 any state agency, public trust with the state as a beneficiary and a
15 director, officer, employee or member thereof, insurance for
16 liability for loss, including judgments, awards, settlements, costs
17 and legal expenses, resulting from violations of rights or
18 privileges secured by the Constitution or laws of the United States
19 of America which occur while a director, officer, employee or member
20 is acting within the scope of service to the State of Oklahoma. The
21 insurance shall be for coverage in excess of the limits on liability
22 established by The Governmental Tort Claims Act but shall not limit
23 or waive any immunities now or hereafter available to the State of
24 Oklahoma or any state agency, any public trust with the state as a

1 beneficiary, or any director, officer, employee or member thereof,
2 including, but not limited to, any immunities under the Eleventh
3 Amendment to the Constitution of the United States, state sovereign
4 immunity, and any absolute or qualified immunity held by any
5 director, officer, employee or member.

6 J. Effective November 1, 2012, institutions of higher
7 education, common education and career technology centers may obtain
8 workers' compensation insurance through third-party vendors.

9 K. Except as provided in subsection J of this section,
10 effective November 1, 2012, all state agencies, boards and
11 commissions shall obtain workers' compensation insurance through the
12 Office of State Finance. The state Risk Management Administrator
13 shall manage the process and shall ensure that information needed
14 for the quoting process shall be available no less than sixty (60)
15 days before the expiration date of the current policy. In addition,
16 the Risk Management Administrator shall have oversight authority of
17 the claims and risk management processes of any private carrier or
18 insurance agency insuring the risk.

19 SECTION 2. This act shall become effective November 1, 2012.
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