ENGROSSED HOUSE
BILL NO. 2909 By: Brumbaugh of the House

and

Brecheen of the Senate

An Act relating to state government; amending 74 O.S. 2011, Section 85.58A, as last amended by Section 32, Chapter 254, O.S.L. 2013 (74 O.S. Supp. 2013, Section 85.58A), which relates to the Office of Management and Enterprise Services; modifying comprehensive professional risk management program; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 2011, Section 85.58A, as last amended by Section 32, Chapter 254, O.S.L. 2013 (74 O.S. Supp. 2013, Section 85.58A), is amended to read as follows:

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

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

2. Minimize risks through loss-prevention and loss-control programs;

3. Transfer risks, if economically advantageous to the state, by acquiring commercial insurance, contractual pass through of liability, or by other means;

4. Consolidate and administer risk management plans and programs including self-insurance programs, except ~~Workers' Compensation Insurance and~~ State Employees Group Insurance;

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

6. Provide a system to allocate insurance and program costs to determine payment for insurance coverage and program expenses provided by the Office of Management and Enterprise Services;

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

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

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

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

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

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

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

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

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

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

G. The Director of the Office of Management and Enterprise Services shall promulgate rules to effect the provisions of the comprehensive professional risk management program.

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

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

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

Start program or providing transportation services to the public, and

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

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

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

I. The Risk Management Administrator may provide or obtain for any state agency, public trust with the state as a beneficiary and a director, officer, employee or member thereof, 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 of America which occur while a director, officer, employee or member is acting within the scope of service to the State of Oklahoma. The 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 State of Oklahoma or any state agency, any public trust with the state as a

beneficiary, 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.

SECTION 2. This act shall become effective November 1, 2014.

Passed the House of Representatives the 12th day of February, 2014.

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Presiding Officer of the House of Representatives

Passed the Senate the ___ day of _____, 2014.

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Presiding Officer of the Senate