

**SENATE FLOOR VERSION**

February 6, 2024

SENATE BILL NO. 1559

By: Pugh

An Act relating to the Office of Management and Enterprise Services; amending 74 O.S. 2021, Section 85.58A, which relates to the state risk management program; excluding certain institutions of higher education from certain definition; prohibiting risk management administrator from directing certain insurance purchase; updating statutory references; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 2021, Section 85.58A, is amended to read as follows:

Section 85.58A. A. The Office of Management and Enterprise Services (OMES) shall establish for all state agencies, whether or not subject to the Oklahoma 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;

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

4        4. Consolidate and administer risk management plans and  
5 programs including self-insurance programs, except ~~State Employees~~  
6 ~~Group Insurance~~ the Oklahoma Employees Insurance Plan;

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

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

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

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

23       9. When requested by a public trust established pursuant to  
24 Title 60 of the Oklahoma Statutes of which the State of Oklahoma is

1 the beneficiary, obtain, provide or assist the public trust in  
2 obtaining insurance authorized by law or trust indenture covering  
3 any board member, trustee, official, officer, employee or volunteer  
4 for errors and omissions or liability risks arising from the  
5 performance of official duties pursuant to law or trust indenture;

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

13 11. Authorize the Risk Management Administrator to declare an  
14 emergency for the purpose of mitigating damages to any state-owned  
15 property insured under the comprehensive professional risk  
16 management program administered by OMES.

17 B. For the purposes of this section, "state agency" shall not  
18 be construed to include colleges and universities under the  
19 authority of the Oklahoma State Regents for Higher Education.  
20 Colleges and universities may request the Risk Management  
21 Administrator to advise for the purchase of property insurance  
22 coverage, but the Administrator shall not direct the purchase of  
23 property insurance from a specific entity.  
24

1        C. The Director of the Office of Management and Enterprise  
2 Services may hire or contract for the services of a Risk Management  
3 Administrator to supervise the ~~Comprehensive Professional Risk~~  
4 ~~Management Program~~ comprehensive professional risk management  
5 program established pursuant to this section. If appointed by the  
6 Director as a state employee, the Risk Management Administrator  
7 shall be in the unclassified service.

8        ~~C.~~ D. The Risk Management Administrator shall evaluate  
9 insurance coverage needs and in force for state agencies, whether or  
10 not subject to the Oklahoma Central Purchasing Act, and other  
11 entities as provided by law. All entities shall submit to the Risk  
12 Management Administrator all information which the Risk Management  
13 Administrator deems necessary to perform this duty.

14        ~~D.~~ E. The Risk Management Administrator in conjunction with the  
15 State Purchasing Director under the authority of the Director of the  
16 Office of Management and Enterprise Services may negotiate insurance  
17 coverage and insurance-related services including, but not limited  
18 to, insurance brokerage and consulting services. The State  
19 Purchasing Director shall ensure open processes for solicitation and  
20 qualification of insurance coverage and services providers. The  
21 State Purchasing Director shall award contracts for insurance  
22 coverage and services to the provider or providers which offer the  
23 best and final terms and conditions. The State Purchasing Director  
24

1 may authorize the Risk Management Administrator to bind for  
2 insurance coverage with providers.

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

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

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

14 ~~H.~~ I. 1. a. Any community action agency established pursuant to  
15 Sections 5035 through ~~5040~~ 5040.1 of this title may  
16 participate in the comprehensive professional risk  
17 management program established pursuant to this  
18 section for risks incurred as a result of operating a  
19 Head Start program or providing transportation  
20 services to the public. The Risk Management  
21 Administrator shall obtain or provide for insurance  
22 coverage for such community action agencies or bonding  
23 for employees of such community action agencies. Any  
24 liability insurance coverage obtained or provided

1 shall include expenses for administrative and legal  
2 services obtained or provided by the Risk Management  
3 Administrator.

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

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

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

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

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

23 ~~I.~~ J. The Risk Management Administrator may provide or obtain  
24 for any state agency, public trust with the state as a beneficiary

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

16 SECTION 2. This act shall become effective November 1, 2024.

17 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE  
18 February 6, 2024 - DO PASS  
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