

**74 O.S. §85.58K—AMENDED**

A. There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services, to be designated the "Risk Management Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies transferred thereto by act of the Legislature and any monies which may be deposited thereto by the Office of Management and Enterprise Services as provided for by law, including all contributions, appropriations, transfers, dividend payments, and investment income of the fund. ~~All interest earned by the State Treasurer on monies deposited in the Risk Management Revolving Fund shall be deposited to the Risk Management Revolving Fund.~~

B. Within the Risk Management Revolving Fund, there is hereby created the Property and Casualty Account, the Motor Vehicle Liability Account and the General Tort Liability Account. The Director of the Office of Management and Enterprise Services is authorized to establish such additional accounts within the Risk Management Revolving Fund deemed necessary. The monies in each account shall be maintained actuarially separate to ensure that premiums or fees paid for specific insurance coverage are adequate to pay the expenses and claims for that coverage.

C. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Office of Management and Enterprise Services for the purposes of the Comprehensive Professional Risk Management Program provided for in Section 85.58A of this title, including but not limited to the salaries and administrative expenses of the Risk Management Administrator and support staff and expenses the Department incurs to support program operations. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

D. The monies in said fund shall be invested by the Risk Management Administrator of the Office of Management and Enterprise Services in the manner specified in Section 85.58W of this title. The Office shall have responsibility for management of the fund.

**VERSION 1**

**NEW Language to be codified at 74 OS §85.58W (BASED on 74 OS §1305.1)**

(1) The Director of the Office of Management and Enterprise Services shall discharge his or her duties with respect to the Risk Management Revolving Fund solely in the interest of said Fund and:

(a) for the exclusive purpose of:

(i) providing insurance coverage for state agencies, and

(ii) defraying reasonable expenses of administering the Comprehensive Professional Risk Management Program as it relates to state agencies;

(b) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(c) by diversifying investments so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(d) in accordance with the laws, documents and instruments governing the Comprehensive Professional Risk Management Program.

(2) The Office may procure insurance indemnifying the Director from personal loss or accountability from liability resulting from action or inaction.

(3) The Office of Management and Enterprise Service, shall retain qualified investment managers to provide for the investment of the monies in the Risk Management Revolving Fund. The investment managers shall be chosen by a solicitation of proposals on a competitive bid basis based on standards set by the Director. Subject to the overall investment guidelines set by the Director, the investment managers shall have full discretion in the management of those monies of the Office allocated to the investment managers. The Director shall oversee the management of those monies not specifically allocated to the investment managers. The monies of the Office allocated to the investment managers shall be actively managed by the investment managers, which may include selling investments and realizing losses if such action is considered advantageous to longer term return maximization. Because of the total return objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses.

(4) Funds and revenues for investment by the investment managers or the Office of Management and Enterprise Services shall be placed with a custodian. The custodian shall be a bank or trust company offering pension fund master trustee and master custodial services. The custodian shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Director. In compliance with the investment policy guidelines of the Director, the custodian bank or trust company shall be contractually responsible for ensuring that all monies of the Office are invested in income-producing investment vehicles at all times. If a custodian bank or trust company has not received direction from the investment managers of the Office as to the investment of the monies of the Office in specific investment vehicles, the custodian bank or trust company shall be contractually responsible to the Office for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles.

(5) Prior to August 1 of each year, the Director shall develop a written investment plan for the monies received by the Office.

(6) The Risk Management Administrator shall compile annual financial statements of all the activity of the Office on a calendar year basis. The financial statements shall be compiled pursuant to accounting principles generally accepted in the United States. The report shall include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall contain combined and individual rate of returns of the investment managers by category of investment, over periods of time. The report shall be distributed to the Director of the Office of Management and Enterprise Services.

## VERSION 2

### **NEW Language to be codified at 74 OS §85.58W (BASED on 74 OS §1305.1)**

(1) The Director of the Office of Management and Enterprise Services shall discharge his or her duties with respect to the Risk Management Revolving Fund solely in the interest of said Fund and:

(a) for the exclusive purpose of:

(i) providing insurance coverage for state agencies, and

(ii) defraying reasonable expenses of administering the Comprehensive Professional Risk Management Program as it relates to state agencies;

(b) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(c) by diversifying investments so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(d) in accordance with the laws, documents and instruments governing the Comprehensive Professional Risk Management Program.

(2) The Office may procure insurance indemnifying the Director from personal loss or accountability from liability resulting from action or inaction.

(3) The Director of the Office of Management and Enterprise Services may establish an investment committee. The investment committee shall be composed of the Risk Management Administrator and two other members selected by the Director for their professional experience in investment or funds management, public funds management, or pension fund management. The investment committee may offer guidance on all matters related to the choice of custodians and managers of the assets of the Risk Management Revolving Fund established in Section 85.58K of this Title, on the establishment of investment and fund management guidelines, and in planning future investment policy. The investment committee shall have no authority to act on behalf of the Risk Management Administrator or the Director of the Office of Management and Enterprise Services in any circumstances whatsoever, nor shall any recommendation or guidance of the investment committee have effect as an action of the Risk Management Administrator or the Director of the Office of Management and Enterprise Services without their express written approval.

(4) The Office of Management and Enterprise Service, shall retain qualified investment managers to provide for the investment of the monies in the Risk Management Revolving Fund. The investment managers shall be chosen by a solicitation of proposals on a competitive bid basis based on standards set by the Director. Subject to the overall investment guidelines set by the Director, the investment managers shall have full discretion in the management of those monies of the Office allocated to the investment managers. The Director shall oversee the management of those monies not specifically allocated to the investment managers. The monies of the Office allocated to the investment managers shall be actively managed by the investment managers, which may include selling investments and realizing losses if such action is considered advantageous to longer term return maximization. Because of the total return

objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses.

(5) Funds and revenues for investment by the investment managers or the Office of Management and Enterprise Services shall be placed with a custodian. The custodian shall be a bank or trust company offering pension fund master trustee and master custodial services. The custodian shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Director. In compliance with the investment policy guidelines of the Director, the custodian bank or trust company shall be contractually responsible for ensuring that all monies of the Office are invested in income-producing investment vehicles at all times. If a custodian bank or trust company has not received direction from the investment managers of the Office as to the investment of the monies of the Office in specific investment vehicles, the custodian bank or trust company shall be contractually responsible to the Office for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles.

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(7) The Risk Management Administrator shall compile annual financial statements of all the activity of the Office on a calendar year basis. The financial statements shall be compiled pursuant to accounting principles generally accepted in the United States. The report shall include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall contain combined and individual rate of returns of the investment managers by category of investment, over periods of time. The report shall be distributed to the Director of the Office of Management and Enterprise Services.