

THE HOUSE OF REPRESENTATIVES  
Monday, April 2, 2007

Committee Substitute for  
ENGROSSED  
Senate Bill No. 736

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 736 - By:  
NICHOLS of the Senate and TERRILL of the House.

An Act relating to state employees; amending 74 O.S. 2001, Section 840-5.5, as last amended by Section 3, Chapter 47, 2nd Extraordinary Session, O.S.L. 2006 (74 O.S. Supp. 2006, Section 840-5.5), which relates to unclassified service; adding new positions to unclassified service; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 74 O.S. 2001, Section 840-5.5, as last amended  
2 by Section 3, Chapter 47, 2nd Extraordinary Session, O.S.L. 2006 (74 O.S. Supp. 2006,  
3 Section 840-5.5), is amended to read as follows:

4 Section 840-5.5 A. The following offices, positions, and personnel shall be in the  
5 unclassified service and shall not be placed under the classified service:

6 1. Persons chosen by popular vote or appointment to fill an elective office, and their  
7 employees, except the employees of the Corporation Commission, the State Department  
8 of Education and the Department of Labor;

9 2. Members of boards and commissions, and heads of agencies; also one principal  
10 assistant or deputy and one executive secretary for each state agency;

- 1           3. All judges, elected or appointed, and their employees;
- 2           4. Persons employed with one-time, limited duration, federal or other grant funding  
3 that is not continuing or indefinitely renewable. The length of the unclassified  
4 employment shall not exceed the period of time for which that specific federal funding is  
5 provided;
- 6           5. All officers and employees of The Oklahoma State System of Higher Education,  
7 State Board of Education and Oklahoma Department of Career and Technology  
8 Education;
- 9           6. Persons employed in a professional or scientific capacity to make or conduct a  
10 temporary and special inquiry, investigation, or examination on behalf of the Legislature  
11 or a committee thereof or by authority of the Governor. These appointments and  
12 authorizations shall terminate on the first day of the regular legislative session  
13 immediately following the appointment, if not terminated earlier. However, nothing in  
14 this paragraph shall prevent the reauthorization and reappointment of any such person.  
15 Any such appointment shall be funded from the budget of the appointing authority;
- 16           7. Election officials and employees;
- 17           8. Temporary employees employed to work less than one thousand (1,000) hours in  
18 any twelve-month period, seasonal employees employed by the Oklahoma Tourism and  
19 Recreation Department pursuant to Section 2241 of this title who work less than one  
20 thousand two hundred (1,200) hours in any twelve-month period, and seasonal  
21 employees employed at lodges and golf courses operated by the Oklahoma Tourism and

1 Recreation Department pursuant to Section 2241 of this title who work less than one  
2 thousand six hundred (1,600) hours in any twelve-month period;

3 9. Department of Public Safety employees occupying the following offices or  
4 positions:

- 5 a. administrative aides to the Commissioner,
- 6 b. executive secretaries to the Commissioner,
- 7 c. the Governor's representative of the Oklahoma Highway Safety Office  
8 who shall be appointed by the Governor,
- 9 d. Highway Patrol Colonel,
- 10 e. Highway Patrol Lieutenant Colonel,
- 11 f. Highway Patrol Major,
- 12 g. Director of Finance,
- 13 h. noncommissioned pilots,
- 14 i. Information Systems Administrator,
- 15 j. Law Enforcement Telecommunications System Specialist,
- 16 k. Director of Driver License Administration,
- 17 l. Director of Transportation Division,
- 18 m. Director of the Alcohol and Drug Countermeasures Unit,
- 19 n. Director of the Oklahoma Highway Safety Office,
- 20 o. Civil Rights Administrator,
- 21 p. Budget Analyst,
- 22 q. Comptroller,

- 1           r.     Chaplain,  
2           s.     Helicopter Mechanic,  
3           t.     Director of Safety Compliance,  
4           u.     Human Resources Director,  
5           v.     Administrator of Department Services, and  
6           w.     a maximum of seven (7) positions for the purpose of administering  
7                 programs in the Oklahoma Highway Safety Office, within full-time  
8                 employee limitations of the Department, employed with federal  
9                 funding that is continuing or indefinitely renewable. The  
10                authorization for such positions shall be terminated if the federal  
11                funding for positions is discontinued;

12 provided, any person appointed to a position prescribed in subparagraph d, e, f or o of  
13 this paragraph shall have a right of return to the classified commissioned position  
14 without any loss of rights, privileges or benefits immediately upon completion of the  
15 duties in the unclassified commissioned position, and any person appointed to a position  
16 prescribed in subparagraph i, j, k, l, m or n of this paragraph shall have a right of return  
17 to the previously held vacant classified position within the Department of Public Safety  
18 without any loss of rights, privileges or benefits immediately upon completion of the  
19 duties in the unclassified commissioned position;

20           10. Professional trainees only during the prescribed length of their course of  
21 training or extension study;

1           11. Students who are employed on a part-time basis, which shall be seventy-five  
2 percent (75%) of a normal forty-hour work week or thirty (30) hours per week, or less, or  
3 on a full-time basis if the employment is pursuant to a cooperative education program  
4 such as that provided for under Title I IV-D of the Higher Education Act of 1965 (20  
5 U.S.C. 1087a-1087c), as amended, and who are regularly enrolled in:

6           a.       an institution of higher learning within The Oklahoma State System of  
7                   Higher Education,

8           b.       an institution of higher learning qualified to become coordinated with  
9                   The Oklahoma State System of Higher Education. For purposes of this  
10                  section, a student shall be considered a regularly enrolled student if  
11                  the student is enrolled in a minimum of five (5) hours of accredited  
12                  graduate courses or a minimum of ten (10) hours of accredited  
13                  undergraduate courses, provided, however, the student shall only be  
14                  required to be enrolled in a minimum of six (6) hours of accredited  
15                  undergraduate courses during the summer, or

16          c.       high school students regularly enrolled in a high school in Oklahoma  
17                  and regularly attending classes during such time of enrollment;

18          12. The spouses of personnel who are employed on a part-time basis to assist or  
19 work as a relief for their spouses in the Oklahoma Tourism and Recreation Department;

20          13. Service substitute attendants who are needed to replace museum and site  
21 attendants who are unavoidably absent. Service substitutes may work as part-time or  
22 full-time relief for absentees for a period of not more than four (4) weeks per year in the

1 Oklahoma Historical Society sites and museums; such substitutes will not count towards  
2 the agency's full-time-equivalent (FTE) employee limit;

3 14. Employees of the Oklahoma House of Representatives, the State Senate, or the  
4 Legislative Service Bureau;

5 15. Corporation Commission personnel occupying the following offices and  
6 positions:

- 7 a. Administrative aides, and executive secretaries to the Commissioners,
- 8 b. Directors of all the divisions, personnel managers and comptrollers,
- 9 c. General Counsel,
- 10 d. Public Utility Division Chief Engineer,
- 11 e. Public Utility Division Chief Accountant,
- 12 f. Public Utility Division Chief Economist,
- 13 g. Public Utility Division Deputy Director,
- 14 h. Secretary of the Commission,
- 15 i. Deputy Conservation Director,
- 16 j. Manager of Pollution Abatement,
- 17 k. Manager of Field Operations,
- 18 l. Manager of Technical Services,
- 19 m. Public Utility Division Chief of Telecommunications,
- 20 n. Director of Information Services, and
- 21 o. All Data Processing employees hired on or after September 1, 2005;

1           16. At the option of the employing agency, the Supervisor, Director, or Educational  
2 Coordinator in any other state agency having a primary responsibility to coordinate  
3 educational programs operated for children in state institutions;

4           17. Department of Mental Health and Substance Abuse Services personnel  
5 occupying the following offices and positions at each facility:

- 6           a. Director of Facility,
- 7           b. Deputy Director for Administration,
- 8           c. Clinical Services Director,
- 9           d. Executive Secretary to Director, and
- 10          e. Directors or Heads of Departments or Services;

11          18. Office of State Finance personnel occupying the following offices and positions:

- 12          a. State Comptroller,
- 13          b. Administrative Officers,
- 14          c. Alternator Claims Auditor,
- 15          d. Employees hired to fulfill state compliance agency requirements under  
16             Model Tribal Gaming Compacts,
- 17          e. Employees of the Budget Division,
- 18          f. Employees of the Fiscal and Research Division,
- 19          g. Employees hired to work on the CORE Systems Project; and
- 20          h. The following employees of the Information Services Division:
  - 21             (1) Information Services Division Manager,
  - 22             (2) Network Manager,

- 1 (3) Network Technician,
- 2 (4) Security Manager,
- 3 (5) Contracts/Purchasing Manager,
- 4 (6) Operating and Applications Manager,
- 5 (7) Project Manager,
- 6 (8) Help Desk Manager,
- 7 (9) Help Desk Technician,
- 8 (10) Quality Assurance Manager,
- 9 (11) ISD Analysts,
- 10 (12) CORE Manager,
- 11 (13) Enterprise System/Database Software Manager,
- 12 (14) Data Center Operations and Production Manager,
- 13 (15) Voice Communications Manager,
- 14 (16) Applications Development Manager,
- 15 (17) Projects Manager,
- 16 (18) PC's Manager,
- 17 (19) Servers Manager,
- 18 (20) Portal Manager, and
- 19 (21) Procurement Specialist;

20 19. Employees of the Oklahoma Industrial Finance Authority;

21 20. Those positions so specified in the annual business plan of the Oklahoma  
22 Department of Commerce;

1           21. Those positions so specified in the annual business plan of the Oklahoma  
2 Center for the Advancement of Science and Technology;

3           22. The following positions and employees of the Oklahoma School of Science and  
4 Mathematics:

- 5           a.       positions for which the annual salary is Twenty-four Thousand One  
6                Hundred Ninety-three Dollars (\$24,193.00) or more, as determined by  
7                the Office of Personnel Management, provided no position shall become  
8                unclassified because of any change in salary or grade while it is  
9                occupied by a classified employee,
- 10          b.       positions requiring certification by the State Department of Education,  
11                and
- 12          c.       positions and employees authorized to be in the unclassified service of  
13                the state elsewhere in this section or in subsection B of this section;

14          23. Office of Personnel Management employees occupying the following positions:

- 15          a.       the Carl Albert Internship Program Coordinator,
- 16          b.       one Administrative Assistant, and
- 17          c.       one Workforce Planning Manager;

18          24. Department of Labor personnel occupying the following offices and positions:

- 19          a.       two Deputy Commissioners,
- 20          b.       two Executive Secretaries to the Commissioner,
- 21          c.       Chief of Staff,
- 22          d.       two Administrative Assistants,

- 1 e. Information Systems Administrator,
- 2 f. three Safety and Health Directors,
- 3 g. Research Director,
- 4 h. Employment Standards Director,
- 5 i. Asbestos Director, and
- 6 j. General Counsel;

7 25. The State Bond Advisor and his or her employees;

8 26. The Oklahoma Employment Security Commission employees occupying the  
9 following positions:

- 10 a. Associate Director,
- 11 b. Secretary to the Associate Director, and
- 12 c. Assistant to the Executive Director;

13 27. Oklahoma Human Rights Commission personnel occupying the position of  
14 Administrative Assistant;

15 28. Officers and employees of the State Banking Department;

16 29. Officers and employees of the University Hospitals Authority except personnel  
17 in the state classified service pursuant to Section 3211 of Title 63 of the Oklahoma  
18 Statutes and members of the University Hospitals Authority Model Personnel System  
19 created pursuant to subsection E of Section 3211 of Title 63 of the Oklahoma Statutes or  
20 as otherwise provided for in Section 3213.2 of Title 63 of the Oklahoma Statutes;

21 30. Alcoholic Beverage Laws Enforcement Commission employees occupying the  
22 following positions:

- 1 a. three Administrative Service Assistant positions, however, employees  
2 in such positions who are in the unclassified service on June 4, 2003,  
3 may make an election to be in the classified service without a loss in  
4 salary by September 1, 2003, and  
5 b. the Deputy Director position in addition to the one authorized by  
6 paragraph 2 of this subsection;

7 31. The Oklahoma State Bureau of Investigation employees occupying the following  
8 positions:

- 9 a. five assistant directors,  
10 b. six special investigators,  
11 c. one information representative,  
12 d. one federally funded physical evidence technician,  
13 e. four federally funded laboratory analysts,  
14 f. a maximum of fourteen positions employed for the purpose of  
15 managing the automated information systems of the agency, ~~and~~  
16 g. one executive secretary in addition to the one authorized pursuant to  
17 paragraph 2 of this subsection,  
18 h. Child Abuse Response Team (CART) investigator, and  
19 i. Child Abuse Response Team (CART) forensic interviewer;

20 32. The Department of Transportation, the following positions:

- 21 a. Director of the Oklahoma Aeronautics Commission,  
22 b. five Department of Transportation Assistant Director positions,

- 1 c. eight field division engineer positions, and  
2 d. one pilot position;
- 3 33. Commissioners of the Land Office employees occupying the following positions:
- 4 a. Director of the Investments Division,  
5 b. Assistant Director of the Investments Division,  
6 c. one Administrative Assistant,  
7 d. one Audit Tech position,  
8 e. one Auditor I position,  
9 f. two Accounting Tech I positions,  
10 g. two Administrative Assistant I positions,  
11 h. two Imaging Specialist positions, and  
12 i. one Information Systems Specialist position;

13 34. Within the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control  
14 Commission, the following positions:

- 15 a. six Narcotics Agent positions and three Typist Clerk/Spanish  
16 transcriptionists, including a Typist Clerk Supervisor/Spanish  
17 transcriptionist, provided, authorization for such positions shall be  
18 terminated if the federal funding for the positions is discontinued,  
19 b. one executive secretary in addition to the one authorized pursuant to  
20 paragraph 2 of this subsection,  
21 c. one fiscal officer,  
22 d. one full-time Programmer, and

1 e. one full-time Network Engineer;

2 35. The Military Department of the State of Oklahoma is authorized such  
3 unclassified employees within full-time employee limitations to work in any of the  
4 Department of Defense directed youth programs, the State of Oklahoma Juvenile Justice  
5 youth programs, those persons reimbursed from Armory Board or Billeting Fund  
6 accounts, and skilled trade positions;

7 36. Within the Oklahoma Commission on Children and Youth the following  
8 unclassified positions:

9 a. one Oversight Specialist and one Community Development Planner,

10 b. one State Plan Grant Coordinator, provided authorization for the  
11 position shall be terminated when federal support for the position by  
12 the United States Department of Education Early Intervention  
13 Program is discontinued, and

14 c. one executive secretary in addition to the one authorized pursuant to  
15 paragraph 2 of this subsection;

16 37. The following positions and employees of the Department of Central Services:

17 a. one Executive Secretary in addition to the Executive Secretary  
18 authorized by paragraph 2 of this subsection,

19 b. the Director of Central Purchasing,

20 c. one Alternate Fuels Administrator,

21 d. one Director of Special Projects,

22 e. three postauditors,

- 1 f. four high-technology contracting officers,  
2 g. one Executive Assistant to the Purchasing Director,  
3 h. four Contracts Managers,  
4 i. one Associate Director,  
5 j. one specialized HiTech/Food Contracting Officer,  
6 k. one State Use Contracting Officer,  
7 l. one Property Distribution Administrator,  
8 m. three licensed architects assigned to the Facilities and Properties  
9 Division,  
10 n. three licensed engineers assigned to the Facilities and Properties  
11 Division,  
12 o. four construction consultants assigned to the Facilities and Properties  
13 Division,  
14 p. one attorney assigned to the Facilities and Properties Division,  
15 q. three positions assigned to the Information Services Division, which  
16 shall include one Information Technology Manager, one Applications  
17 Specialist and one Data Planning Specialist, and  
18 r. four positions assigned to Fleet Management, which shall include one  
19 Deputy Fleet Manager and three Management Analysts;

20 38. Four Water Quality Specialists, and four Water Resources Division Chiefs  
21 within the Oklahoma Water Resources Board;

1           39. J.D. McCarty Center for Children with Developmental Disabilities personnel  
2 occupying the following offices and positions:

- 3           a.     Physical Therapists,
- 4           b.     Physical Therapist Assistants,
- 5           c.     Occupational Therapists,
- 6           d.     Certified Occupational Therapist Aides, and
- 7           e.     Speech Pathologists;

8           40. The Development Officer and the Director of the State Museum of History  
9 within the Oklahoma Historical Society;

10          41. Oklahoma Department of Agriculture, Food, and Forestry personnel occupying  
11 the following positions:

- 12          a.     one Executive Secretary in addition to the Executive Secretary  
13                authorized by paragraph 2 of this subsection and one Executive  
14                Assistant,
- 15          b.     nineteen Agricultural Marketing Coordinator III positions,
- 16          c.     temporary fire suppression personnel, regardless of the number of  
17                hours worked, who are employed by the Oklahoma Department of  
18                Agriculture, Food, and Forestry; provided, however, notwithstanding  
19                the provisions of any other section of law, the hours worked by such  
20                employees shall not entitle such employees to any benefits received by  
21                full-time employees,
- 22          d.     one Administrator for Human Resources,

- 1 e. one Director of Administrative Services,  
2 f. one Water Quality Consumer Complaint Coordinator,  
3 g. one hydrologist position,  
4 h. Public Information Office Director,  
5 i. Market Development Services Director,  
6 j. Legal Services Director,  
7 k. Animal Industry Services Director,  
8 l. Agricultural Environmental Management Services Director,  
9 m. Forestry Services Director,  
10 n. Plant Industry and Consumer Services Director,  
11 o. one Grants Administrator position,  
12 p. Director of Laboratory Services,  
13 q. Chief of Communications,  
14 r. Public Information Manager,  
15 s. Inventory/Supply Officer,  
16 t. five Agriculture Field Inspector positions assigned the responsibility  
17 for conducting inspections and audits of agricultural grain storage  
18 warehouses. All other Agriculture Field Inspector positions and  
19 employees of the Oklahoma Department of Agriculture, Food, and  
20 Forestry shall be classified and subject to the provisions of the Merit  
21 System of Personnel Administration. On November 1, 2002, all other

- 1 unclassified Agriculture Field Inspectors shall be given status in the  
2 classified service as provided in Section 840-4.2 of this title,
- 3 u. Rural Fire Coordinator,
  - 4 v. one Agricultural Marketing Coordinator III,
  - 5 w. Food Safety Division Director,
  - 6 x. two Environmental Program Specialists,
  - 7 y. two Scale Technicians, and
  - 8 z. two Plant Protection Specialists;

9 42. The Contracts Administrator within the Oklahoma State Employees Benefits  
10 Council;

11 43. The Development Officer within the Oklahoma Department of Libraries;

12 44. Oklahoma Real Estate Commission personnel occupying the following offices  
13 and positions:

14 a. Educational Program Director, and

15 b. Data Processing Manager;

16 45. A Chief Consumer Credit Examiner for the Department of Consumer Credit;

17 46. All officers and employees of the Oklahoma Capitol Complex and Centennial  
18 Commemoration Commission;

19 47. All officers and employees of the Oklahoma Motor Vehicle Commission;

20 48. One Museum Archivist of The Will Rogers Memorial Commission;

21 49. One Fire Protection Engineer of the Office of the State Fire Marshal;

1           50. Acting incumbents employed pursuant to Section 209 of Title 44 or Section 48 of  
2 Title 72 of the Oklahoma Statutes who shall not be included in any limitation on full-  
3 time equivalency imposed by law on an agency. Permanent classified employees may  
4 request a leave of absence from classified status and accept an unclassified appointment  
5 and compensation as an acting incumbent with the same agency; provided, the leave  
6 shall expire no later than two (2) years from the date of the acting incumbent  
7 appointment. An appointing authority may establish unclassified positions and appoint  
8 unclassified employees to perform the duties of a permanent classified employee who is  
9 on leave of absence from a classified position to serve as an acting incumbent. All  
10 unclassified appointments created pursuant to this paragraph shall expire no later than  
11 two (2) years from the date of appointment. Classified employees accepting unclassified  
12 appointments and compensation pursuant to this paragraph shall be entitled to  
13 participate without interruption in any benefit programs available to classified  
14 employees, including retirement and insurance programs. Immediately upon  
15 termination of an unclassified appointment pursuant to this paragraph, an employee on  
16 assignment from the classified service shall have a right to be restored to the classified  
17 service and reinstated to the former job family level and compensation plus any  
18 adjustments and increases in salary or benefits which the employee would have received  
19 but for the leave of absence;

20           51. The Oklahoma Homeland Security Director and all other positions assigned the  
21 responsibilities of working in the Oklahoma Office of Homeland Security;

22           52. The following eighteen (18) positions in the State Department of Health:

- 1 a. one surveillance supervisor,
- 2 b. one surveillance project monitor,
- 3 c. two bilingual interviewers,
- 4 d. eight senior interviewers, and
- 5 e. six interviewers; and

6 53. State Board of Registration for Professional Engineers and Land Surveyors  
7 personnel occupying the following offices and positions:

- 8 a. one Director of Enforcement, and
- 9 b. one Board Investigator.

10 B. If an agency has the authority to employ personnel in the following offices and  
11 positions, the appointing authority shall have the discretion to appoint personnel to the  
12 unclassified service:

- 13 1. Licensed medical doctors, osteopathic physicians, dentists, psychologists, and  
14 nurses;
- 15 2. Certified public accountants;
- 16 3. Licensed attorneys;
- 17 4. Licensed veterinarians; and
- 18 5. Licensed pharmacists.

19 C. Effective July 1, 1996, authorization for unclassified offices, positions, or  
20 personnel contained in a bill or joint resolution shall terminate June 30 of the ensuing  
21 fiscal year after the authorization unless the authorization is codified in the Oklahoma  
22 Statutes or the termination is otherwise provided in the legislation.

1 D. The appointing authority of agencies participating in the statewide information  
2 systems project may establish unclassified positions and appoint unclassified employees  
3 to the project as needed. Additional unclassified positions may be established, if  
4 required, to appoint an unclassified employee to perform the duties of a permanent  
5 classified employee who is temporarily absent from a classified position as a result of  
6 assignment to this project. All unclassified appointments under this authority shall  
7 expire no later than December 31, 2007, and all unclassified positions established to  
8 support the project shall be abolished. Both the positions and appointments resulting  
9 from this authority shall be exempt from any agency FTE limitations and any limits  
10 imposed on the number of unclassified positions authorized. Permanent classified  
11 employees may request a leave of absence from classified status and accept an  
12 unclassified appointment and compensation with the same agency under the provisions  
13 of this subsection; provided, the leave shall expire no later than December 31, 2007.  
14 Employees accepting the appointment and compensation shall be entitled to participate  
15 without interruption in any benefit programs available to classified employees, including  
16 retirement and insurance programs. Immediately upon termination of an unclassified  
17 appointment pursuant to this subsection, an employee on assignment from the classified  
18 service shall have a right to be restored to the classified service and reinstated to the  
19 former job family level and compensation plus any adjustments and increases in salary  
20 or benefits which the employee would have received but for the leave of absence.

1           SECTION 2. It being immediately necessary for the preservation of the public  
2 peace, health and safety, an emergency is hereby declared to exist, by reason whereof  
3 this act shall take effect and be in full force from and after its passage and approval.  
4 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY,  
5 dated 3-29-07 - DO PASS, As Amended.