

SB 736

Senate Bill No. 736
As Amended

SENATE BILL NO. 736 - By: NICHOLS of the Senate and TERRILL of the House.

[state employees - unclassified service - emergency]

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

SECTION 1. AMENDATORY 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), is amended to read as follows:

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

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

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

3. All judges, elected or appointed, and their employees;

1 4. Persons employed with one-time, limited duration, federal or
2 other grant funding that is not continuing or indefinitely
3 renewable. The length of the unclassified employment shall not
4 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
7 Higher Education, State Board of Education and Oklahoma Department
8 of Career and Technology Education;

9 6. Persons employed in a professional or scientific capacity to
10 make or conduct a temporary and special inquiry, investigation, or
11 examination on behalf of the Legislature or a committee thereof or
12 by authority of the Governor. These appointments and authorizations
13 shall terminate on the first day of the regular legislative session
14 immediately following the appointment, if not terminated earlier.
15 However, nothing in this paragraph shall prevent the reauthorization
16 and reappointment of any such person. Any such appointment shall be
17 funded from the budget of the appointing authority;

18 7. Election officials and employees;

19 8. Temporary employees employed to work less than one thousand
20 (1,000) hours in any twelve-month period, seasonal employees
21 employed by the Oklahoma Tourism and Recreation Department pursuant
22 to Section 2241 of this title who work less than one thousand two
23 hundred (1,200) hours in any twelve-month period, and seasonal

1 employees employed at lodges and golf courses operated by the
2 Oklahoma Tourism and Recreation Department pursuant to Section 2241
3 of this title who work less than one thousand six hundred (1,600)
4 hours in any twelve-month period;

5 9. Department of Public Safety employees occupying the
6 following offices or positions:

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

1 q. Comptroller,
2 r. Chaplain,
3 s. Helicopter Mechanic,
4 t. Director of Safety Compliance,
5 u. Human Resources Director,
6 v. Administrator of Department Services, and
7 w. a maximum of seven (7) positions for the purpose of
8 administering programs in the Oklahoma Highway Safety
9 Office, within full-time employee limitations of the
10 Department, employed with federal funding that is
11 continuing or indefinitely renewable. The
12 authorization for such positions shall be terminated
13 if the federal funding for positions is discontinued;
14 provided, any person appointed to a position prescribed in
15 subparagraph d, e, f or o of this paragraph shall have a right of
16 return to the classified commissioned position without any loss of
17 rights, privileges or benefits immediately upon completion of the
18 duties in the unclassified commissioned position, and any person
19 appointed to a position prescribed in subparagraph i, j, k, l, m or
20 n of this paragraph shall have a right of return to the previously
21 held vacant classified position within the Department of Public
22 Safety without any loss of rights, privileges or benefits

1 immediately upon completion of the duties in the unclassified
2 commissioned position;

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

5 11. Students who are employed on a part-time basis, which shall
6 be seventy-five percent (75%) of a normal forty-hour work week or
7 thirty (30) hours per week, or less, or on a full-time basis if the
8 employment is pursuant to a cooperative education program such as
9 that provided for under Title I IV-D of the Higher Education Act of
10 1965 (20 U.S.C. 1087a-1087c), as amended, and who are regularly
11 enrolled in:

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

1 c. high school students regularly enrolled in a high
2 school in Oklahoma and regularly attending classes
3 during such time of enrollment;

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

7 13. Service substitute attendants who are needed to replace
8 museum and site attendants who are unavoidably absent. Service
9 substitutes may work as part-time or full-time relief for absentees
10 for a period of not more than four (4) weeks per year in the
11 Oklahoma Historical Society sites and museums; such substitutes will
12 not count towards the agency's full-time-equivalent (FTE) employee
13 limit;

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

16 15. Corporation Commission personnel occupying the following
17 offices and positions:

18 a. Administrative aides, and executive secretaries to the
19 Commissioners,

20 b. Directors of all the divisions, personnel managers and
21 comptrollers,

22 c. General Counsel,

23 d. Public Utility Division Chief Engineer,

- 1 e. Public Utility Division Chief Accountant,
- 2 f. Public Utility Division Chief Economist,
- 3 g. Public Utility Division Deputy Director,
- 4 h. Secretary of the Commission,
- 5 i. Deputy Conservation Director,
- 6 j. Manager of Pollution Abatement,
- 7 k. Manager of Field Operations,
- 8 l. Manager of Technical Services,
- 9 m. Public Utility Division Chief of Telecommunications,
- 10 n. Director of Information Services, and
- 11 o. All Data Processing employees hired on or after
- 12 September 1, 2005;

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

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

- 20 a. Director of Facility,
- 21 b. Deputy Director for Administration,
- 22 c. Clinical Services Director,
- 23 d. Executive Secretary to Director, and

- 1 e. Directors or Heads of Departments or Services;
- 2 18. Office of State Finance personnel occupying the following
- 3 offices and positions:
- 4 a. State Comptroller,
- 5 b. Administrative Officers,
- 6 c. Alternator Claims Auditor,
- 7 d. Employees hired to fulfill state compliance agency
- 8 requirements under Model Tribal Gaming Compacts,
- 9 e. Employees of the Budget Division,
- 10 f. Employees of the Fiscal and Research Division,
- 11 g. Employees hired to work on the CORE Systems Project;
- 12 and
- 13 h. The following employees of the Information Services
- 14 Division:
- 15 (1) Information Services Division Manager,
- 16 (2) Network Manager,
- 17 (3) Network Technician,
- 18 (4) Security Manager,
- 19 (5) Contracts/Purchasing Manager,
- 20 (6) Operating and Applications Manager,
- 21 (7) Project Manager,
- 22 (8) Help Desk Manager,
- 23 (9) Help Desk Technician,

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

13 19. Employees of the Oklahoma Industrial Finance Authority;

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

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

18 22. The following positions and employees of the Oklahoma
19 School of Science and Mathematics:

- 20 a. positions for which the annual salary is Twenty-four
21 Thousand One Hundred Ninety-three Dollars (\$24,193.00)
22 or more, as determined by the Office of Personnel
23 Management, provided no position shall become

1 unclassified because of any change in salary or grade
2 while it is occupied by a classified employee,
3 b. positions requiring certification by the State
4 Department of Education, and
5 c. positions and employees authorized to be in the
6 unclassified service of the state elsewhere in this
7 section or in subsection B of this section;

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

- 10 a. the Carl Albert Internship Program Coordinator,
- 11 b. one Administrative Assistant, and
- 12 c. one Workforce Planning Manager;

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

- 15 a. two Deputy Commissioners,
- 16 b. two Executive Secretaries to the Commissioner,
- 17 c. Chief of Staff,
- 18 d. two Administrative Assistants,
- 19 e. Information Systems Administrator,
- 20 f. three Safety and Health Directors,
- 21 g. Research Director,
- 22 h. Employment Standards Director,
- 23 i. Asbestos Director, and

- 1 j. General Counsel;
- 2 25. The State Bond Advisor and his or her employees;
- 3 26. The Oklahoma Employment Security Commission employees
- 4 occupying the following positions:
- 5 a. Associate Director,
- 6 b. Secretary to the Associate Director, and
- 7 c. Assistant to the Executive Director;
- 8 27. Oklahoma Human Rights Commission personnel occupying the
- 9 position of Administrative Assistant;
- 10 28. Officers and employees of the State Banking Department;
- 11 29. Officers and employees of the University Hospitals
- 12 Authority except personnel in the state classified service pursuant
- 13 to Section 3211 of Title 63 of the Oklahoma Statutes and members of
- 14 the University Hospitals Authority Model Personnel System created
- 15 pursuant to subsection E of Section 3211 of Title 63 of the Oklahoma
- 16 Statutes or as otherwise provided for in Section 3213.2 of Title 63
- 17 of the Oklahoma Statutes;
- 18 30. Alcoholic Beverage Laws Enforcement Commission employees
- 19 occupying the following positions:
- 20 a. three Administrative Service Assistant positions,
- 21 however, employees in such positions who are in the
- 22 unclassified service on June 4, 2003, may make an

1 election to be in the classified service without a
2 loss in salary by September 1, 2003, and
3 b. the Deputy Director position in addition to the one
4 authorized by paragraph 2 of this subsection;

5 31. The Oklahoma State Bureau of Investigation employees
6 occupying the following positions:

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

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

- 20 a. Director of the Oklahoma Aeronautics Commission,
- 21 b. five Department of Transportation Assistant Director
22 positions,
- 23 c. eight field division engineer positions, and

1 d. one pilot position;

2 33. Commissioners of the Land Office employees occupying the
3 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
14 Drugs Control Commission, the following positions:

15 a. six Narcotics Agent positions and three Typist

16 Clerk/Spanish transcriptionists, including a Typist

17 Clerk Supervisor/Spanish transcriptionist, provided,

18 authorization for such positions shall be terminated

19 if the federal funding for the positions is

20 discontinued,

21 b. one executive secretary in addition to the one

22 authorized pursuant to paragraph 2 of this subsection,

23 c. one fiscal officer,

- 1 d. one full-time Programmer, and
- 2 e. one full-time Network Engineer;

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

9 36. Within the Oklahoma Commission on Children and Youth the
10 following unclassified positions:

- 11 a. one Oversight Specialist and one Community Development
12 Planner,
- 13 b. one State Plan Grant Coordinator, provided
14 authorization for the position shall be terminated
15 when federal support for the position by the United
16 States Department of Education Early Intervention
17 Program is discontinued, and
- 18 c. one executive secretary in addition to the one
19 authorized pursuant to paragraph 2 of this subsection;

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

- 1 a. one Executive Secretary in addition to the Executive
2 Secretary authorized by paragraph 2 of this
3 subsection,
4 b. the Director of Central Purchasing,
5 c. one Alternate Fuels Administrator,
6 d. one Director of Special Projects,
7 e. three postauditors,
8 f. four high-technology contracting officers,
9 g. one Executive Assistant to the Purchasing Director,
10 h. four Contracts Managers,
11 i. one Associate Director,
12 j. one specialized HiTech/Food Contracting Officer,
13 k. one State Use Contracting Officer,
14 l. one Property Distribution Administrator,
15 m. three licensed architects assigned to the Facilities
16 and Properties Division,
17 n. three licensed engineers assigned to the Facilities
18 and Properties Division,
19 o. four construction consultants assigned to the
20 Facilities and Properties Division,
21 p. one attorney assigned to the Facilities and Properties
22 Division,

1 q. three positions assigned to the Information Services
2 Division, which shall include one Information
3 Technology Manager, one Applications Specialist and
4 one Data Planning Specialist, and

5 r. four positions assigned to Fleet Management, which
6 shall include one Deputy Fleet Manager and three
7 Management Analysts;

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

10 39. J.D. McCarty Center for Children with Developmental
11 Disabilities personnel occupying the following offices and
12 positions:

- 13 a. Physical Therapists,
- 14 b. Physical Therapist Assistants,
- 15 c. Occupational Therapists,
- 16 d. Certified Occupational Therapist Aides, and
- 17 e. Speech Pathologists;

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

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

- 1 a. one Executive Secretary in addition to the Executive
2 Secretary authorized by paragraph 2 of this subsection
3 and one Executive Assistant,
4 b. nineteen Agricultural Marketing Coordinator III
5 positions,
6 c. temporary fire suppression personnel, regardless of
7 the number of hours worked, who are employed by the
8 Oklahoma Department of Agriculture, Food, and
9 Forestry; provided, however, notwithstanding the
10 provisions of any other section of law, the hours
11 worked by such employees shall not entitle such
12 employees to any benefits received by full-time
13 employees,
14 d. one Administrator for Human Resources,
15 e. one Director of Administrative Services,
16 f. one Water Quality Consumer Complaint Coordinator,
17 g. one hydrologist position,
18 h. Public Information Office Director,
19 i. Market Development Services Director,
20 j. Legal Services Director,
21 k. Animal Industry Services Director,
22 l. Agricultural Environmental Management Services
23 Director,

- 1 m. Forestry Services Director,
2 n. Plant Industry and Consumer Services Director,
3 o. one Grants Administrator position,
4 p. Director of Laboratory Services,
5 q. Chief of Communications,
6 r. Public Information Manager,
7 s. Inventory/Supply Officer,
8 t. five Agriculture Field Inspector positions assigned
9 the responsibility for conducting inspections and
10 audits of agricultural grain storage warehouses. All
11 other Agriculture Field Inspector positions and
12 employees of the Oklahoma Department of Agriculture,
13 Food, and Forestry shall be classified and subject to
14 the provisions of the Merit System of Personnel
15 Administration. On November 1, 2002, all other
16 unclassified Agriculture Field Inspectors shall be
17 given status in the classified service as provided in
18 Section 840-4.2 of this title,
19 u. Rural Fire Coordinator,
20 v. one Agricultural Marketing Coordinator III,
21 w. Food Safety Division Director,
22 x. two Environmental Program Specialists,
23 y. two Scale Technicians, and

1 z. two Plant Protection Specialists;

2 42. The Contracts Administrator within the Oklahoma State

3 Employees Benefits Council;

4 43. The Development Officer within the Oklahoma Department of

5 Libraries;

6 44. Oklahoma Real Estate Commission personnel occupying the

7 following offices and positions:

8 a. Educational Program Director, and

9 b. Data Processing Manager;

10 45. A Chief Consumer Credit Examiner for the Department of

11 Consumer Credit;

12 46. All officers and employees of the Oklahoma Capitol Complex

13 and Centennial Commemoration Commission;

14 47. All officers and employees of the Oklahoma Motor Vehicle

15 Commission;

16 48. One Museum Archivist of The Will Rogers Memorial

17 Commission;

18 49. One Fire Protection Engineer of the Office of the State

19 Fire Marshal;

20 50. Acting incumbents employed pursuant to Section 209 of Title

21 44 or Section 48 of Title 72 of the Oklahoma Statutes who shall not

22 be included in any limitation on full-time equivalency imposed by

23 law on an agency. Permanent classified employees may request a

1 leave of absence from classified status and accept an unclassified
2 appointment and compensation as an acting incumbent with the same
3 agency; provided, the leave shall expire no later than two (2) years
4 from the date of the acting incumbent appointment. An appointing
5 authority may establish unclassified positions and appoint
6 unclassified employees to perform the duties of a permanent
7 classified employee who is on leave of absence from a classified
8 position to serve as an acting incumbent. All unclassified
9 appointments created pursuant to this paragraph shall expire no
10 later than two (2) years from the date of appointment. Classified
11 employees accepting unclassified appointments and compensation
12 pursuant to this paragraph shall be entitled to participate without
13 interruption in any benefit programs available to classified
14 employees, including retirement and insurance programs. Immediately
15 upon termination of an unclassified appointment pursuant to this
16 paragraph, an employee on assignment from the classified service
17 shall have a right to be restored to the classified service and
18 reinstated to the former job family level and compensation plus any
19 adjustments and increases in salary or benefits which the employee
20 would have received but for the leave of absence;

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

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

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

8 53. State Board of Registration for Professional Engineers and
9 Land Surveyors personnel occupying the following offices and
10 positions:

- 11 a. one Director of Enforcement, and
- 12 b. one Board Investigator.

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

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

22 C. Effective July 1, 1996, authorization for unclassified
23 offices, positions, or personnel contained in a bill or joint

1 resolution shall terminate June 30 of the ensuing fiscal year after
2 the authorization unless the authorization is codified in the
3 Oklahoma Statutes or the termination is otherwise provided in the
4 legislation.

5 D. The appointing authority of agencies participating in the
6 statewide information systems project may establish unclassified
7 positions and appoint unclassified employees to the project as
8 needed. Additional unclassified positions may be established, if
9 required, to appoint an unclassified employee to perform the duties
10 of a permanent classified employee who is temporarily absent from a
11 classified position as a result of assignment to this project. All
12 unclassified appointments under this authority shall expire no later
13 than December 31, 2007, and all unclassified positions established
14 to support the project shall be abolished. Both the positions and
15 appointments resulting from this authority shall be exempt from any
16 agency FTE limitations and any limits imposed on the number of
17 unclassified positions authorized. Permanent classified employees
18 may request a leave of absence from classified status and accept an
19 unclassified appointment and compensation with the same agency under
20 the provisions of this subsection; provided, the leave shall expire
21 no later than December 31, 2007. Employees accepting the
22 appointment and compensation shall be entitled to participate
23 without interruption in any benefit programs available to classified

1 employees, including retirement and insurance programs. Immediately
2 upon termination of an unclassified appointment pursuant to this
3 subsection, an employee on assignment from the classified service
4 shall have a right to be restored to the classified service and
5 reinstated to the former job family level and compensation plus any
6 adjustments and increases in salary or benefits which the employee
7 would have received but for the leave of absence.

8 SECTION 2. It being immediately necessary for the preservation
9 of the public peace, health and safety, an emergency is hereby
10 declared to exist, by reason whereof this act shall take effect and
11 be in full force from and after its passage and approval.

12 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-21-07 - DO
13 PASS, As Amended and Coauthored.