

THE HOUSE OF REPRESENTATIVES
Monday, March 1, 2010

Committee Substitute for
House Bill No. 2623

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2623 - By: OWNBEY of the House and BINGMAN of the Senate.

An Act relating to state government; amending 74 O.S. 2001, Section 840-5.5, as last amended by Section 1, Chapter 300, O.S.L. 2008 (74 O.S. Supp. 2009, Section 840-5.5), which relates to unclassified service positions; adding unclassified positions to the Oklahoma State Bureau of Investigation; and providing an effective date.

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 1, Chapter 300, O.S.L. 2008 (74 O.S. Supp. 2009, Section 840-5.5), is amended
3 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;
- 11 3. All judges, elected or appointed, and their employees;

1 4. Persons employed with one-time, limited duration, federal or other grant funding
2 that is not continuing or indefinitely renewable. The length of the unclassified
3 employment shall not exceed the period of time for which that specific federal funding is
4 provided;

5 5. All officers and employees of The Oklahoma State System of Higher Education,
6 State Board of Education and Oklahoma Department of Career and Technology
7 Education;

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

15 7. Election officials and employees;

16 8. Temporary employees employed to work less than one thousand (1,000) hours in
17 any twelve-month period, and seasonal employees employed by the Oklahoma Tourism
18 and Recreation Department pursuant to Section 2241 of this title who work less than one
19 thousand six hundred (1,600) hours in any twelve-month period;

20 9. Department of Public Safety employees occupying the following offices or
21 positions:

22 a. administrative aides to the Commissioner,

- 1 b. executive secretaries to the Commissioner,
2 c. the Governor’s representative of the Oklahoma Highway Safety Office
3 who shall be appointed by the Governor,
4 d. Highway Patrol Colonel,
5 e. Highway Patrol Lieutenant Colonel,
6 f. Director of Finance,
7 g. noncommissioned pilots,
8 h. Information Systems Administrator,
9 i. Law Enforcement Telecommunications System Specialist,
10 j. Director of Driver Compliance,
11 k. Director of Transportation Division,
12 l. Director of the Oklahoma Highway Safety Office,
13 m. Civil Rights Administrator,
14 n. Budget Analyst,
15 o. Comptroller,
16 p. Chaplain,
17 q. Helicopter Mechanic,
18 r. Director of Safety Compliance,
19 s. Human Resources Director,
20 t. Administrator of Department Services, and
21 u. a maximum of seven (7) positions for the purpose of administering
22 programs in the Oklahoma Highway Safety Office, within full-time

1 employee limitations of the Department, employed with federal
2 funding that is continuing or indefinitely renewable. The
3 authorization for such positions shall be terminated if the federal
4 funding for positions is discontinued;

5 provided, any person appointed to a position prescribed in subparagraph d or e of
6 this paragraph shall have a right of return to the classified commissioned position
7 without any loss of rights, privileges or benefits immediately upon completion of the
8 duties in the unclassified commissioned position;

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

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

- 16 a. an institution of higher learning within The Oklahoma State System of
17 Higher Education,
18 b. an institution of higher learning qualified to become coordinated with
19 The Oklahoma State System of Higher Education. For purposes of this
20 section, a student shall be considered a regularly enrolled student if
21 the student is enrolled in a minimum of five (5) hours of accredited
22 graduate courses or a minimum of ten (10) hours of accredited

1 undergraduate courses, provided, however, the student shall only be
2 required to be enrolled in a minimum of six (6) hours of accredited
3 undergraduate courses during the summer, or

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

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

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

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

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

17 a. Administrative aides, and executive secretaries to the Commissioners,

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

19 c. General Counsel,

20 d. Public Utility Division Chief Engineer,

21 e. Public Utility Division Chief Accountant,

22 f. Public Utility Division Chief Economist,

- 1 g. Public Utility Division Deputy Director,
- 2 h. Secretary of the Commission,
- 3 i. Deputy Conservation Director,
- 4 j. Manager of Pollution Abatement,
- 5 k. Manager of Field Operations,
- 6 l. Manager of Technical Services,
- 7 m. Public Utility Division Chief of Telecommunications,
- 8 n. Director of Information Services,
- 9 o. All Data Processing employees hired on or after September 1, 2005,
- 10 p. All Public Utilities employees hired on or after September 1, 2007,
- 11 q. All Regulatory Program Managers hired on or after September 1, 2007,
- 12 and
- 13 r. All Pipeline Safety Department employees hired on or after September
- 14 1, 2008;

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

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

- 20 a. Director of Facility,
- 21 b. Deputy Director for Administration,
- 22 c. Clinical Services Director,

- 1 d. Executive Secretary to Director, and
- 2 e. Directors or Heads of Departments or Services;
- 3 18. Office of State Finance personnel occupying the following 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 requirements under
- 8 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; and
- 12 h. The following employees of the Information Services Division:
- 13 (1) Information Services Division Manager,
- 14 (2) Network Manager,
- 15 (3) Network Technicians,
- 16 (4) Security Manager,
- 17 (5) Contracts/Purchasing Manager,
- 18 (6) Operating and Applications Manager,
- 19 (7) Project Manager,
- 20 (8) Help Desk Manager,
- 21 (9) Help Desk Technicians,
- 22 (10) Quality Assurance Manager,

- 1 (11) ISD Analysts,
2 (12) CORE Manager,
3 (13) Enterprise System/Database Software Manager,
4 (14) Data Center Operations and Production Manager,
5 (15) Voice Communications Manager,
6 (16) Applications Development Manager,
7 (17) Projects Manager,
8 (18) PC's Manager,
9 (19) Servers Manager,
10 (20) Portal Manager,
11 (21) Procurement Specialists,
12 (22) Security Technicians,
13 (23) Enterprise Communications and Network Administrator,
14 (24) Server Support Specialists,
15 (25) Senior Server Support Specialists,
16 (26) Systems Support Specialists, and
17 (27) Senior Systems Support Specialists;
18 19. Employees of the Oklahoma Industrial Finance Authority;
19 20. Those positions so specified in the annual business plan of the Oklahoma
20 Department of Commerce;
21 21. Those positions so specified in the annual business plan of the Oklahoma
22 Center for the Advancement of Science and Technology;

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

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

- 13 a. the Carl Albert Internship Program Coordinator,
- 14 b. one Administrative Assistant,
- 15 c. one Workforce Planning Manager,
- 16 d. Assistant Administrators,
- 17 e. one Associate Administrator, and
- 18 f. Division Directors;

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

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

- 1 d. two Administrative Assistants,
2 e. Information Systems Administrator,
3 f. three Safety and Health Directors,
4 g. Research Director,
5 h. Employment Standards Director,
6 i. Asbestos Director,
7 j. General Counsel,
8 k. one Legal Secretary,
9 l. one Docket Clerk, and
10 m. two Information Systems Application Specialists;
11 25. The State Bond Advisor and his or her employees;
12 26. The Oklahoma Employment Security Commission employees occupying the
13 following positions:
14 a. Associate Director,
15 b. Secretary to the Associate Director, and
16 c. Assistant to the Executive Director;
17 27. Oklahoma Human Rights Commission personnel occupying the position of
18 Administrative Assistant;
19 28. Officers and employees of the State Banking Department;
20 29. Officers and employees of the University Hospitals Authority except personnel
21 in the state classified service pursuant to Section 3211 of Title 63 of the Oklahoma
22 Statutes and members of the University Hospitals Authority Model Personnel System

1 created pursuant to subsection E of Section 3211 of Title 63 of the Oklahoma Statutes or
2 as otherwise provided for in Section 3213.2 of Title 63 of the Oklahoma Statutes;

3 30. Alcoholic Beverage Laws Enforcement Commission employees occupying the
4 following positions:

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

11 31. The Oklahoma State Bureau of Investigation employees occupying the following
12 positions:

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

- 1 i. Child Abuse Response Team (CART) forensic interviewer, and
2 j. nine administration and research positions and five data processing
3 and information technology positions transferred from the Oklahoma
4 Criminal Justice Resource Center pursuant to Section 150.17a of this
5 title;

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

- 7 a. Director of the Oklahoma Aeronautics Commission,
8 b. five Department of Transportation Assistant Director positions,
9 c. eight field division engineer positions,
10 d. one pilot position,
11 e. five Project Manager Positions, and
12 f. five Transportation Coordinators;

13 33. Commissioners of the Land Office employees occupying the following positions:

- 14 a. Director of the Investments Division,
15 b. Assistant Director of the Investments Division,
16 c. one Administrative Assistant,
17 d. one Audit Tech position,
18 e. one Auditor I position,
19 f. two Accounting Tech I positions,
20 g. two Administrative Assistant I positions,
21 h. two Imaging Specialist positions, and
22 i. one Information Systems Specialist position;

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

- 3 a. six Narcotics Agent positions and three Typist Clerk/Spanish
4 transcriptionists, including a Typist Clerk Supervisor/Spanish
5 transcriptionist, provided, authorization for such positions shall be
6 terminated if the federal funding for the positions is discontinued,
- 7 b. one executive secretary in addition to the one authorized pursuant to
8 paragraph 2 of this subsection,
- 9 c. one fiscal officer,
- 10 d. one full-time Programmer, and
- 11 e. one full-time Network Engineer;

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

17 36. Within the Oklahoma Commission on Children and Youth the following
18 unclassified positions:

- 19 a. one Oversight Specialist and one Community Development Planner,
- 20 b. one State Plan Grant Coordinator, provided authorization for the
21 position shall be terminated when federal support for the position by

- 1 the United States Department of Education Early Intervention
2 Program is discontinued,
- 3 c. one executive secretary in addition to the one authorized pursuant to
4 paragraph 2 of this subsection, and
- 5 d. one Programs Manager;
- 6 37. The following positions and employees of the Department of Central Services:
- 7 a. one Executive Secretary in addition to the Executive Secretary
8 authorized by paragraph 2 of this subsection,
- 9 b. the Director of Central Purchasing,
- 10 c. one Alternate Fuels Administrator,
- 11 d. one Director of Special Projects,
- 12 e. three postauditors,
- 13 f. four high-technology contracting officers,
- 14 g. one Executive Assistant to the Purchasing Director,
- 15 h. four Contracts Managers,
- 16 i. one Associate Director,
- 17 j. one specialized HiTech/Food Contracting Officer,
- 18 k. one State Use Contracting Officer,
- 19 l. one Property Distribution Administrator,
- 20 m. three licensed architects assigned to the Construction and Properties
21 Division,

- 1 n. three licensed engineers assigned to the Construction and Properties
- 2 Division,
- 3 o. eight construction consultants assigned to the Construction and
- 4 Properties Division,
- 5 p. one attorney assigned to the Construction and Properties Division,
- 6 q. three positions assigned to the Information Services Division, which
- 7 shall include one Information Technology Manager, one Applications
- 8 Specialist and one Data Planning Specialist, and
- 9 r. four positions assigned to Fleet Management, which shall include one
- 10 Deputy Fleet Manager and three Management Analysts;

11 38. Oklahoma Water Resources Board personnel occupying the following offices and
12 positions:

- 13 a. four Water Quality Assistant Division Chiefs,
- 14 b. four Water Resources Division Chiefs, and
- 15 c. Director of Water Planning;

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

- 18 a. Physical Therapists,
- 19 b. Physical Therapist Assistants,
- 20 c. Occupational Therapists,
- 21 d. Certified Occupational Therapist Aides, and
- 22 e. Speech Pathologists;

1 40. The Development Officer, the Director of the State Museum of History and the
2 Cherokee Strip Regional Heritage Center Director within the Oklahoma Historical
3 Society;

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

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

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

- 1 z. two Plant Protection Specialists;
- 2 42. The Contracts Administrator within the Oklahoma State Employees Benefits
- 3 Council;
- 4 43. The Development Officer within the Oklahoma Department of Libraries;
- 5 44. Oklahoma Real Estate Commission personnel occupying the following offices
- 6 and positions:
- 7 a. Educational Program Director, and
- 8 b. Data Processing Manager;
- 9 45. A Chief Consumer Credit Examiner for the Department of Consumer Credit;
- 10 46. All officers and employees of the Oklahoma Capitol Complex and Centennial
- 11 Commemoration Commission;
- 12 47. All officers and employees of the Oklahoma Motor Vehicle Commission;
- 13 48. One Museum Archivist of The Will Rogers Memorial Commission;
- 14 49. One Fire Protection Engineer of the Office of the State Fire Marshal;
- 15 50. Acting incumbents employed pursuant to Section 209 of Title 44 or Section 48 of
- 16 Title 72 of the Oklahoma Statutes who shall not be included in any limitation on full-
- 17 time equivalency imposed by law on an agency. Permanent classified employees may
- 18 request a leave of absence from classified status and accept an unclassified appointment
- 19 and compensation as an acting incumbent with the same agency; provided, the leave
- 20 shall expire no later than two (2) years from the date of the acting incumbent
- 21 appointment. An appointing authority may establish unclassified positions and appoint
- 22 unclassified employees to perform the duties of a permanent classified employee who is

1 on leave of absence from a classified position to serve as an acting incumbent. All
2 unclassified appointments created pursuant to this paragraph shall expire no later than
3 two (2) years from the date of appointment. Classified employees accepting unclassified
4 appointments and compensation pursuant to this paragraph shall be entitled to
5 participate without interruption in any benefit programs available to classified
6 employees, including retirement and insurance programs. Immediately upon
7 termination of an unclassified appointment pursuant to this paragraph, an employee on
8 assignment from the classified service shall have a right to be restored to the classified
9 service and reinstated to the former job family level and compensation plus any
10 adjustments and increases in salary or benefits which the employee would have received
11 but for the leave of absence;

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

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

- 15 a. one surveillance supervisor,
- 16 b. one surveillance project monitor,
- 17 c. two bilingual interviewers,
- 18 d. eight senior interviewers, and
- 19 e. six interviewers;

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

- 22 a. one Director of Enforcement, and

1 b. two Board Investigators;

2 54. One Information Systems Data Management Analyst of the ~~Oklahoma~~ State
3 and Education Employees Group Insurance Board; and

4 55. Two Management Information Systems positions of the Office of Juvenile
5 Affairs.

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

9 1. Licensed medical doctors, osteopathic physicians, dentists, psychologists, and
10 nurses;

11 2. Certified public accountants;

12 3. Licensed attorneys;

13 4. Licensed veterinarians; and

14 5. Licensed pharmacists.

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

19 D. The appointing authority of agencies participating in the statewide information
20 systems project may establish unclassified positions and appoint unclassified employees
21 to the project as needed. Additional unclassified positions may be established, if
22 required, to appoint an unclassified employee to perform the duties of a permanent

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

17 SECTION 2. This act shall become effective November 1, 2010.

18 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,
19 dated 02-25-10 - DO PASS, As Amended and Coauthored.