

As Amended by House Committee

Session of 2013

HOUSE BILL No. 2384

By Committee on Appropriations

2-28

1 AN ACT concerning state employees; relating to classified and
2 unclassified service; amending K.S.A. 39-752, 74-2015, 75-5310, 75-
3 5605, 75-5607 and 75-5611 and K.S.A. 2012 Supp. 75-711, 75-2935,
4 75-4315a and 75-5121 and repealing the existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. The purpose of this act is to allow the executive
8 branch state agencies to provide governmental services for the citizens of
9 Kansas by attracting, retaining, and developing highly competent
10 employees in order for such agencies of state government to function
11 effectively, efficiently and productively. The public interest is best served
12 by recruiting, selecting and advancing employees on the basis of the
13 employee's relative ability, knowledge and skills; providing compensation
14 based on merit, performance, job value and competitiveness within
15 applicable labor markets; training employees if the training will result in
16 better organizational and individual performance; retaining employees on
17 the basis of the adequacy of their performance; correcting inadequate
18 performance where possible and appropriate; and separating employees
19 whose performance is inadequate.

20 Sec. 2. On and after July 1, 2013, K.S.A. 39-752 is hereby amended
21 to read as follows: 39-752. The secretary shall employ, subject to the
22 approval of the finance council, supervisors to carry out such program.
23 Such supervisors shall be ~~within the classified~~ *in the unclassified* service
24 under the Kansas civil service act.

25 Sec. 3. On and after July 1, 2013, K.S.A. 74-2015 is hereby amended
26 to read as follows: 74-2015. Within the division of vehicles, there shall be
27 a supervisor of driver's license examiners and such driver's license
28 examiners as may be needed. ~~Said supervisor and~~ *The supervisor of*
29 *driver's license examiners shall be in the unclassified service under the*
30 *Kansas civil service act.* All such driver's license examiners shall be within
31 the classified service under the Kansas civil service act, *unless otherwise*
32 *provided by law.* Such driver's license examiners shall make and conduct
33 all examinations of applicants for operator's and chauffeur's licenses
34 required by law, and shall exercise and enforce the licensing provisions of
35 the operator's and chauffeur's licensing act, and shall perform such other
36 duties as may be prescribed by law or by the director of vehicles. All such

1 driver's license examiners are hereby vested with the power and authority
2 of peace and police officers in the execution of the duties imposed upon
3 them by this act and by the director of vehicles. The director of vehicles
4 shall determine what, if any, vehicles, equipment and supplies, and
5 insignia of office are needed by driver's license examiners. The property so
6 determined to be needed shall be furnished without expense to such
7 examiners. All property so furnished shall remain the property of the state
8 and be strictly accounted for by each driver's license examiner. The
9 secretary of revenue may adopt rules and regulations for the conduct and
10 duties of driver's license examiners.

11 Sec. 4. On and after July 1, 2013, K.S.A. 2012 Supp. 75-711 is
12 hereby amended to read as follows: 75-711. There is hereby established,
13 under the jurisdiction of the attorney general, a division to be known as the
14 Kansas bureau of investigation. The director of the bureau shall be
15 appointed by the attorney general, subject to confirmation by the senate as
16 provided in K.S.A. 75-4315b, and amendments thereto, and shall have
17 special training and qualifications for such position. Except as provided by
18 K.S.A. 46-2601, and amendments thereto, no person appointed as director
19 shall exercise any power, duty or function as director until confirmed by
20 the senate. In accordance with appropriation acts, the director shall appoint
21 agents who shall be trained in the detection and apprehension of criminals.
22 The director shall appoint an associate director, and any such assistant
23 directors from within the agency as are necessary for the efficient
24 operation of the bureau, who shall have the qualifications and employee
25 benefits, including longevity, of an agent. The director also may appoint a
26 deputy director and, in accordance with appropriation acts, such
27 administrative employees as are necessary for the efficient operation of the
28 bureau. No person shall be appointed to a position within the Kansas
29 bureau of investigation if the person has been convicted of a felony.

30 The director, associate director, deputy director, assistant directors and
31 any assistant attorneys general assigned to the bureau shall be within the
32 unclassified service under the Kansas civil service act. All other agents and
33 employees of the bureau shall be in the classified service under the Kansas
34 civil service act and their compensation shall be determined as provided in
35 the Kansas civil service act and shall receive actual and necessary
36 expenses.

37 ~~Any person who was a member of the bureau at the time of~~
38 ~~appointment as director, associate director or assistant director, upon the~~
39 ~~expiration of their appointment, shall be returned to an unclassified or~~
40 ~~regular classified position under the Kansas civil service act with~~
41 ~~compensation comparable to and not lower than compensation being~~
42 ~~received at the time of appointment to the unclassified service. If all such~~
43 ~~possible positions are filled at that time, a temporary additional position~~

1 ~~shall be created for the person until a vacancy exists in the position. While~~
2 ~~servng in the temporary additional position, the person shall continue to~~
3 ~~be a contributing member of the retirement system for the agents of the~~
4 ~~Kansas bureau of investigation.~~

5 Each agent of the bureau shall subscribe to an oath to faithfully
6 discharge the duties of such agent's office, as is required of other public
7 officials.

8 Sec. 5. K.S.A. 2012 Supp. 75-2935 is hereby amended to read as
9 follows: 75-2935. The civil service of the state of Kansas is hereby divided
10 into the unclassified and the classified services.

11 (1) The unclassified service comprises positions held by state officers
12 or employees who are:

13 (a) Chosen by election or appointment to fill an elective office;

14 (b) members of boards and commissions, heads of departments
15 required by law to be appointed by the governor or by other elective
16 officers, and the executive or administrative heads of offices, departments,
17 divisions and institutions specifically established by law;

18 (c) except as otherwise provided under this section, one personal
19 secretary to each elective officer of this state, and in addition thereto, 10
20 deputies, clerks or employees designated by such elective officer;

21 (d) all employees in the office of the governor;

22 (e) officers and employees of the senate and house of representatives
23 of the legislature and of the legislative coordinating council and all officers
24 and employees of the office of revisor of statutes, of the legislative
25 research department, of the division of legislative administrative services,
26 of the division of post audit and the legislative counsel;

27 (f) chancellor, president, deans, administrative officers, student health
28 service physicians, pharmacists, teaching and research personnel, health
29 care employees and student employees in the institutions under the state
30 board of regents, the executive officer of the board of regents and the
31 executive officer's employees other than clerical employees, and, at the
32 discretion of the state board of regents, directors or administrative officers
33 of departments and divisions of the institution and county extension
34 agents, except that this subsection (1)(f) shall not be construed to include
35 the custodial, clerical or maintenance employees, or any employees
36 performing duties in connection with the business operations of any such
37 institution, except administrative officers and directors; as used in this
38 subsection (1)(f), "health care employees" means employees of the
39 university of Kansas medical center who provide health care services at
40 the university of Kansas medical center and who are medical technicians
41 or technologists or respiratory therapists, who are licensed professional
42 nurses or licensed practical nurses, or who are in job classes which are
43 designated for this purpose by the chancellor of the university of Kansas

1 upon a finding by the chancellor that such designation is required for the
2 university of Kansas medical center to recruit or retain personnel for
3 positions in the designated job classes; and employees of any institution
4 under the state board of regents who are medical technologists;

5 (g) operations, maintenance and security personnel employed to
6 implement agreements entered into by the adjutant general and the federal
7 national guard bureau, and officers and enlisted persons in the national
8 guard and the naval militia;

9 (h) persons engaged in public work for the state but employed by
10 contractors when the performance of such contract is authorized by the
11 legislature or other competent authority;

12 (i) persons temporarily employed or designated by the legislature or
13 by a legislative committee or commission or other competent authority to
14 make or conduct a special inquiry, investigation, examination or
15 installation;

16 (j) officers and employees in the office of the attorney general and
17 special counsel to state departments appointed by the attorney general,
18 except that officers and employees of the division of the Kansas bureau of
19 investigation shall be in the classified or unclassified service as provided
20 in K.S.A. 75-711, and amendments thereto;

21 (k) all employees of courts;

22 (l) client, patient and inmate help in any state facility or institution;

23 (m) all attorneys for ~~boards, commissions and departments~~ *any state*
24 *agency*;

25 (n) the secretary and assistant secretary of the Kansas state historical
26 society;

27 (o) physician specialists, dentists, dental hygienists, pharmacists,
28 medical technologists and long term care workers employed by the
29 ~~department of social and rehabilitation services~~ *for children and families*;

30 (p) physician specialists, dentists and medical technologists employed
31 by any board, commission or department or by any institution under the
32 jurisdiction thereof;

33 (q) student employees enrolled in public institutions of higher
34 learning;

35 (r) administrative officers, directors and teaching personnel of the
36 state board of education and the state department of education and of any
37 institution under the supervision and control of the state board of
38 education, except that this subsection (1)(r) shall not be construed to
39 include the custodial, clerical or maintenance employees, or any
40 employees performing duties in connection with the business operations of
41 any such institution, except administrative officers and directors;

42 (s) all officers and employees in the office of the secretary of state;

43 (t) one personal secretary and one special assistant to the following:

1 The secretary of administration, the secretary ~~of~~ *for aging and disability*
2 *services*, the secretary of agriculture, the secretary of commerce, the
3 secretary of corrections, the secretary of health and environment, the
4 superintendent of the Kansas highway patrol, the secretary of labor, the
5 secretary of revenue, the secretary ~~of social and rehabilitation services for~~
6 *children and families*, the secretary of transportation, the secretary of
7 wildlife, parks and tourism and the commissioner of juvenile justice;

8 (u) one personal secretary and one special assistant to the chancellor
9 and presidents of institutions under the state board of regents;

10 (v) one personal secretary and one special assistant to the executive
11 vice chancellor of the university of Kansas medical center;

12 (w) one public information officer and one chief attorney for the
13 following: The department of administration, the ~~Kansas department on~~
14 *for aging and disability services*, the department of agriculture, the
15 department of commerce, the department of corrections, the department of
16 health and environment, the department of labor, the department of
17 revenue, the department ~~of social and rehabilitation services~~ *children and*
18 *families*, the department of transportation, the Kansas department of
19 wildlife, parks and tourism and the commissioner of juvenile justice;

20 (x) ~~civil service examination monitors;~~

21 ~~(y)~~ one executive director, one general counsel and one director of
22 public affairs and consumer protection in the office of the state corporation
23 commission;

24 ~~(z)~~ (y) specifically designated by law as being in the unclassified
25 service;

26 ~~(aa)~~ (z) any position that ~~is classified as a position in the~~ *performs*
27 ~~information resource manager job class series, that is the chief position~~
28 ~~responsible for all information resources management~~ *technology*
29 ~~functions for a state agency, and that becomes vacant on or after the~~
30 ~~effective date of this act. Nothing in this section shall affect the classified~~
31 ~~status of any employee in the classified service who is employed on the~~
32 ~~date immediately preceding the effective date of this act in any position~~
33 ~~that is a classified position in the information resource manager job class~~
34 ~~series and the unclassified status as prescribed by this subsection shall~~
35 ~~apply only to a person appointed to any such position on or after the~~
36 ~~effective date of this act that is the chief position responsible for all~~
37 ~~information resources management for a state agency; and;~~

38 *(aa) any position with direct supervisory responsibilities for*
39 *subordinate staff at a state agency, except positions in the department of*
40 *corrections, adjutant general, Kansas highway patrol and the Kansas*
41 *bureau of investigation;*

42 (bb) positions at state institutions of higher education that have been
43 converted to unclassified positions pursuant to K.S.A. 2012 Supp. 76-

1 715a, and amendments thereto; and

2 (cc) newly hired positions, including any employee who is rehired
3 into such position and any current state employee who transfers into, or is
4 promoted or demoted into such position, on and after July 1, 2013, in any
5 state agency except the department of corrections, adjutant general,
6 Kansas highway patrol and the Kansas bureau of investigation.

7 (2) The classified service comprises all positions now existing, or
8 hereafter created in the department of corrections, adjutant general,
9 Kansas highway patrol and the Kansas bureau of investigation, which are
10 not included in the unclassified service. Appointments in the classified
11 service shall be made according to merit and fitness from eligible pools
12 which so far as practicable shall be competitive. No person shall be
13 appointed, promoted, reduced or discharged as an officer, clerk, employee
14 or laborer in the classified service in any manner or by any means other
15 than those prescribed in the Kansas civil service act and the rules adopted
16 in accordance therewith.

17 (3) For positions involving unskilled, or semiskilled duties, the
18 secretary of administration, as provided by law, shall establish rules and
19 regulations concerning certifications, appointments, layoffs and
20 reemployment which may be different from the rules and regulations
21 established concerning these processes for other positions in the classified
22 service.

23 (4) Officers authorized by law to make appointments to positions in
24 the unclassified service, and appointing officers of departments or
25 institutions whose employees are exempt from the provisions of the
26 Kansas civil service act because of the constitutional status of such
27 departments or institutions shall be permitted to make appointments from
28 appropriate pools of eligibles maintained by the division of personnel
29 services.

30 (5) Except as provided in subsection (6) and notwithstanding the
31 provisions of K.S.A. 22-4524, 32-802, 44-510g, 44-551, 44-552, 48-205,
32 48-919, 49-402e, 58-4105, 58-4503, 65-2878, 65-6103, 73-1210a, 73-
33 1234, 74-506d, 74-515b, 74-561, 74-569, 74-631, 74-1106, 74-1704, 74-
34 1806, 74-2435, 74-2614, 74-2702, 74-2906a, 74-5014, 74-5210, 74-6707,
35 74-6901, 74-6904, 74-7008, 74-7501, 74-8704, 74-8805, 74-9804, 75-118,
36 75-1202d, 75-2537, 75-2944, 75-3148, 75-3702c, 75-4222, 75-5005, 75-
37 5015, 75-5016, 75-5122, 75-5157, 75-5309, 75-5378, 75-5610, 75-5702,
38 75-5708, 75-5733, 75-5910, 75-7028, 75-7054, 75-7304, 76-1002a, 76-
39 1116, 76-12a04, 76-12a05, 76-12a08, 76-12a16, 76-3202 and 82a-1205
40 and K.S.A. 2012 Supp. 39-1911, and amendments thereto, on July 1, 2013,
41 any of the following persons or positions who are within the classified
42 service under the Kansas civil service act on June 30, 2013, shall be
43 converted to the unclassified service under the Kansas civil service act:

1 (A) Any attorney for any state agency; (B) any position with direct
2 supervisory responsibilities for subordinate staff at any state agency; and
3 (C) any position that performs information technology functions for any
4 state agency. On or before June 1, 2013, the appointing authority of such
5 state agency shall inform each person, in writing, of the conversion of
6 such person's position from classified service to unclassified service.

7 ~~(6) (A) No classified position or employee in the department of labor~~
8 ~~shall be converted to the unclassified service pursuant to subsection (5) if~~
9 ~~such conversion would violate the methods relating to the establishment~~
10 ~~and maintenance of personnel standards on a merit basis in violation of~~
11 ~~42 U.S.C. § 503~~ **On and after the effective date of this act, any state**
12 **agency that has positions in the classified service within the Kansas**
13 **civil service act to satisfy any requirement of maintaining personnel**
14 **standards on a merit basis pursuant to federal law or the rules and**
15 **regulations promulgated thereunder by the federal government or any**
16 **agency thereof, may adopt a binding statement of agency policy**
17 **pursuant to K.S.A. 77-415, and amendments thereto, to satisfy such**
18 **requirements.**

19 (B) ~~No classified position or employee in the department of~~
20 ~~corrections, the juvenile justice authority, the adjutant general, the~~
21 ~~Kansas highway patrol or the Kansas bureau of investigation or any~~
22 ~~person in a classified position who holds a full-time active law~~
23 ~~enforcement certificate or a provisional law enforcement certificate~~
24 ~~shall be converted to the unclassified service pursuant to subsection (5)~~
25 ~~(B).~~

26 Sec. 6. **On and after July 1, 2013, K.S.A. 2012 Supp. 75-4315a is**
27 **hereby amended to read as follows: 75-4315a. Whenever it is provided by**
28 **law that the governor shall appoint the secretary of any department of state**
29 **government or the chief administrative or executive officer of any other**
30 **agency of state government or that the secretary of any department of state**
31 **government shall appoint the director of a division, whether any of the**
32 **positions designated herein are in the classified or unclassified service of**
33 **the Kansas civil service act, and whether such department, agency or**
34 **division has been specified by statute or authorized by statute to be**
35 **established, the governor or departmental secretary may appoint an acting**
36 **secretary, chief administrative or executive officer or director to serve for a**
37 **period not greater than six months. Any acting state officer appointed**
38 **under authority of this section shall have and exercise all of the powers,**
39 **duties and functions of the office in which he or she such officer is acting.**
40 **Subject to the approval of the state finance council, the governor or the**
41 **secretary appointing an acting state officer shall fix the salary of the acting**
42 **state officer if the position is in the unclassified service, and in no event**
43 **shall the salary of the acting state officer be less than the amount the**

1 person appointed is receiving in such person's permanent state
2 employment. ~~In the event the person appointed as an acting state officer is~~
3 ~~in the classified service prior to such appointment, such person shall retain~~
4 ~~the right to return to his or her permanent classified status without loss of~~
5 ~~any civil service right and his or her service shall be deemed to be~~
6 ~~continuous.~~

7 Sec. 7. On and after July 1, 2013, K.S.A. 2012 Supp. 75-5121 is
8 hereby amended to read as follows: 75-5121. The secretary of revenue
9 may appoint attorneys for the department of revenue and its divisions and
10 officers, except attorneys for the state court of tax appeals and the division
11 and director of alcoholic beverage control. All attorneys appointed under
12 this section shall be subject to assignment and reassignment of duty within
13 the department of revenue as may be determined by the attorney
14 designated by the secretary of revenue as chief attorney of the department
15 of revenue. ~~Not more than three attorneys appointed under this section~~
16 ~~shall be in the classified service under the Kansas civil service act. All~~
17 ~~other~~ attorneys, including the chief attorney of the department of revenue,
18 appointed under this section shall be in the unclassified service under the
19 Kansas civil service act and shall receive annual salaries fixed by the
20 secretary of revenue and approved by the governor.

21 Sec. 8. On and after July 1, 2013, K.S.A. 75-5310 is hereby amended
22 to read as follows: 75-5310. (a) ~~The secretary of social and rehabilitation~~
23 ~~services for children and families may appoint a chief attorney and other~~
24 ~~attorneys for the department of social and rehabilitation services for~~
25 ~~children and families. The chief attorney shall serve at the pleasure of the~~
26 ~~secretary, shall be in the unclassified service under the Kansas civil service~~
27 ~~act and shall receive an annual salary fixed by the secretary and approved~~
28 ~~by the governor. The secretary may also appoint staff assistants. Such staff~~
29 ~~assistants and attorneys other than the chief attorney shall be in the~~
30 ~~classified service under the Kansas civil service act, unless otherwise~~
31 ~~provided by law. All attorneys shall be in the unclassified service under~~
32 ~~the Kansas civil service act. The secretary may appoint one public~~
33 ~~information officer, one personal secretary and one special assistant who~~
34 ~~shall serve at the pleasure of the secretary, shall be in the unclassified~~
35 ~~service under the Kansas civil service act and shall receive annual salaries~~
36 ~~fixed by the secretary and approved by the governor. The secretary may~~
37 ~~appoint a deputy secretary who shall serve at the pleasure of the secretary,~~
38 ~~be in the unclassified service under the Kansas civil service act and shall~~
39 ~~receive an annual salary fixed by the secretary and approved by the~~
40 ~~governor.~~

41 (b) The secretary may appoint commissioners and deputy
42 commissioners as determined necessary by the secretary to effectively
43 carry out the mission of the department. All commissioners and deputy

1 commissioners shall serve at the pleasure of the secretary, shall be in the
2 unclassified service under the Kansas civil service act and shall receive an
3 annual salary fixed by the secretary and approved by the governor. The
4 secretary may also appoint a director for each of the department's
5 management areas. Each area director shall serve at the pleasure of the
6 secretary, be in the unclassified service under the Kansas civil service act
7 and shall receive an annual salary fixed by the secretary and approved by
8 the governor. Nothing in this act shall affect the classified status of any
9 person employed as a deputy commissioner or area director on the day
10 immediately preceding the effective date of the act and the unclassified
11 status shall apply only to persons appointed to such positions on or after
12 the effective date of the act.

13 Sec. 9. On and after July 1, 2013, K.S.A. 75-5605 is hereby amended
14 to read as follows: 75-5605. There is hereby established within and as a
15 part of the department of health and environment a division of
16 environment, the head of which shall be the director of the division of
17 environment. Under the supervision of the secretary of health and
18 environment, the director of the division of environment shall administer
19 the division of environment. The director shall have experience and
20 educational training in the field of environment. The secretary of health
21 and environment shall appoint the director of the division of environment
22 who shall serve at the pleasure of the secretary. The director shall be in the
23 unclassified service and shall receive an annual salary fixed by the
24 secretary and approved by the state finance council. ~~If a director was an~~
25 ~~employee of the state of Kansas in a regular classified position under the~~
26 ~~Kansas civil service act at the time of selection as director, such person,~~
27 ~~upon the conclusion of service as director, shall be returned to the regular~~
28 ~~classified position under the Kansas civil service act such person held at~~
29 ~~the time of appointment as director, and if such position be filled at that~~
30 ~~time, a temporary additional position shall be created for such person until~~
31 ~~such time as a vacancy exists in such position. While serving in such~~
32 ~~temporary additional position the former director shall continue to be a~~
33 ~~contributing member of the retirement system under which such person~~
34 ~~was covered while serving as director.~~

35 Sec. 10. On and after July 1, 2013, K.S.A. 75-5607 is hereby
36 amended to read as follows: 75-5607. There is hereby established under
37 the supervision of the secretary of health and environment, an office of
38 laboratory services, the head of which shall be the head of the office of
39 laboratory services. Under the supervision of the secretary of health and
40 environment, the head of the office of laboratory services shall administer
41 the office of laboratory services. The head of the office of laboratory
42 services shall be in the ~~classified~~ *unclassified* service of the Kansas civil
43 service act and shall be appointed by the secretary of health and

1 environment.

2 Sec. 11. On and after July 1, 2013, K.S.A. 75-5611 is hereby
3 amended to read as follows: 75-5611. The secretary of health and
4 environment may appoint a chief attorney and other attorneys for the
5 department of health and environment. The chief attorney shall serve at the
6 pleasure of the secretary, shall be in the unclassified service under the
7 Kansas civil service act and shall receive an annual salary fixed by the
8 secretary of health and environment and approved by the governor. The
9 secretary of health and environment may also appoint staff assistants. Such
10 staff assistants ~~and attorneys other than the chief attorney~~ shall be in the
11 classified service under the Kansas civil service act, *unless otherwise*
12 *provided by law. All attorneys shall be in the unclassified service under*
13 *the Kansas civil service act.* The secretary of health and environment may
14 appoint one public information officer, one personal secretary and one
15 special assistant who shall be in the unclassified service under the Kansas
16 civil service act and shall receive compensation fixed by the secretary of
17 health and environment and approved by the governor.

18 Sec. 12. K.S.A. 2012 Supp. 75-2935 is hereby repealed.

19 Sec. 13. On and after July 1, 2013, K.S.A. 39-752, 74-2015, 75-5310,
20 75-5605, 75-5607 and 75-5611 and K.S.A. 2012 Supp. 75-711, 75-4315a
21 and 75-5121 are hereby repealed.

22 Sec. 14. This act shall take effect and be in force from and after its
23 publication in the Kansas register.