

## 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 serving 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.

12 (B) No classified position or employee in the department of  
13 corrections, the adjutant general, the Kansas highway patrol or the  
14 Kansas bureau of investigation shall be converted to the unclassified  
15 service pursuant to subsection (5)(B).

16 Sec. 6. K.S.A. 2012 Supp. 75-4315a is hereby amended to read as  
17 follows: 75-4315a. Whenever it is provided by law that the governor shall  
18 appoint the secretary of any department of state government or the chief  
19 administrative or executive officer of any other agency of state  
20 government or that the secretary of any department of state government  
21 shall appoint the director of a division, whether any of the positions  
22 designated herein are in the classified or unclassified service of the Kansas  
23 civil service act, and whether such department, agency or division has  
24 been specified by statute or authorized by statute to be established, the  
25 governor or departmental secretary may appoint an acting secretary, chief  
26 administrative or executive officer or director to serve for a period not  
27 greater than six months. Any acting state officer appointed under authority  
28 of this section shall have and exercise all of the powers, duties and  
29 functions of the office in which ~~he or she~~ such officer is acting. Subject to  
30 the approval of the state finance council, the governor or the secretary  
31 appointing an acting state officer shall fix the salary of the acting state  
32 officer if the position is in the unclassified service, and in no event shall  
33 the salary of the acting state officer be less than the amount the person  
34 appointed is receiving in such person's permanent state employment. ~~In the~~  
35 ~~event the person appointed as an acting state officer is in the classified~~  
36 ~~service prior to such appointment, such person shall retain the right to~~  
37 ~~return to his or her permanent classified status without loss of any civil~~  
38 ~~service right and his or her service shall be deemed to be continuous.~~

39 Sec. 7. On and after July 1, 2013, K.S.A. 2012 Supp. 75-5121 is  
40 hereby amended to read as follows: 75-5121. The secretary of revenue  
41 may appoint attorneys for the department of revenue and its divisions and  
42 officers, except attorneys for the state court of tax appeals and the division  
43 and director of alcoholic beverage control. All attorneys appointed under

1 this section shall be subject to assignment and reassignment of duty within  
2 the department of revenue as may be determined by the attorney  
3 designated by the secretary of revenue as chief attorney of the department  
4 of revenue. ~~Not more than three attorneys appointed under this section~~  
5 ~~shall be in the classified service under the Kansas civil service act.~~ All  
6 other attorneys, including the chief attorney of the department of revenue,  
7 appointed under this section shall be in the unclassified service under the  
8 Kansas civil service act and shall receive annual salaries fixed by the  
9 secretary of revenue and approved by the governor.

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

30 (b) The secretary may appoint commissioners and deputy  
31 commissioners as determined necessary by the secretary to effectively  
32 carry out the mission of the department. All commissioners and deputy  
33 commissioners shall serve at the pleasure of the secretary, shall be in the  
34 unclassified service under the Kansas civil service act and shall receive an  
35 annual salary fixed by the secretary and approved by the governor. The  
36 secretary may also appoint a director for each of the department's  
37 management areas. Each area director shall serve at the pleasure of the  
38 secretary, be in the unclassified service under the Kansas civil service act  
39 and shall receive an annual salary fixed by the secretary and approved by  
40 the governor. Nothing in this act shall affect the classified status of any  
41 person employed as a deputy commissioner or area director on the day  
42 immediately preceding the effective date of the act and the unclassified  
43 status shall apply only to persons appointed to such positions on or after



1 the effective date of the act.

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

24 Sec. 10. On and after July 1, 2013, K.S.A. 75-5607 is hereby  
25 amended to read as follows: 75-5607. There is hereby established under  
26 the supervision of the secretary of health and environment, an office of  
27 laboratory services, the head of which shall be the head of the office of  
28 laboratory services. Under the supervision of the secretary of health and  
29 environment, the head of the office of laboratory services shall administer  
30 the office of laboratory services. The head of the office of laboratory  
31 services shall be in the ~~classified~~ *unclassified* service of the Kansas civil  
32 service act and shall be appointed by the secretary of health and  
33 environment.

34 Sec. 11. On and after July 1, 2013, K.S.A. 75-5611 is hereby  
35 amended to read as follows: 75-5611. The secretary of health and  
36 environment may appoint a chief attorney and other attorneys for the  
37 department of health and environment. The chief attorney shall serve at the  
38 pleasure of the secretary, shall be in the unclassified service under the  
39 Kansas civil service act and shall receive an annual salary fixed by the  
40 secretary of health and environment and approved by the governor. The  
41 secretary of health and environment may also appoint staff assistants. Such  
42 staff assistants ~~and attorneys other than the chief attorney~~ shall be in the  
43 classified service under the Kansas civil service act, *unless otherwise*

1 *provided by law. All attorneys shall be in the unclassified service under*  
2 *the Kansas civil service act.* The secretary of health and environment may  
3 appoint one public information officer, one personal secretary and one  
4 special assistant who shall be in the unclassified service under the Kansas  
5 civil service act and shall receive compensation fixed by the secretary of  
6 health and environment and approved by the governor.

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

8 Sec. 13. On and after July 1, 2013, K.S.A. 39-752, 74-2015, 75-5310,  
9 75-5605, 75-5607 and 75-5611 and K.S.A. 2012 Supp. 75-711, 75-4315a  
10 and 75-5121 are hereby repealed.

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